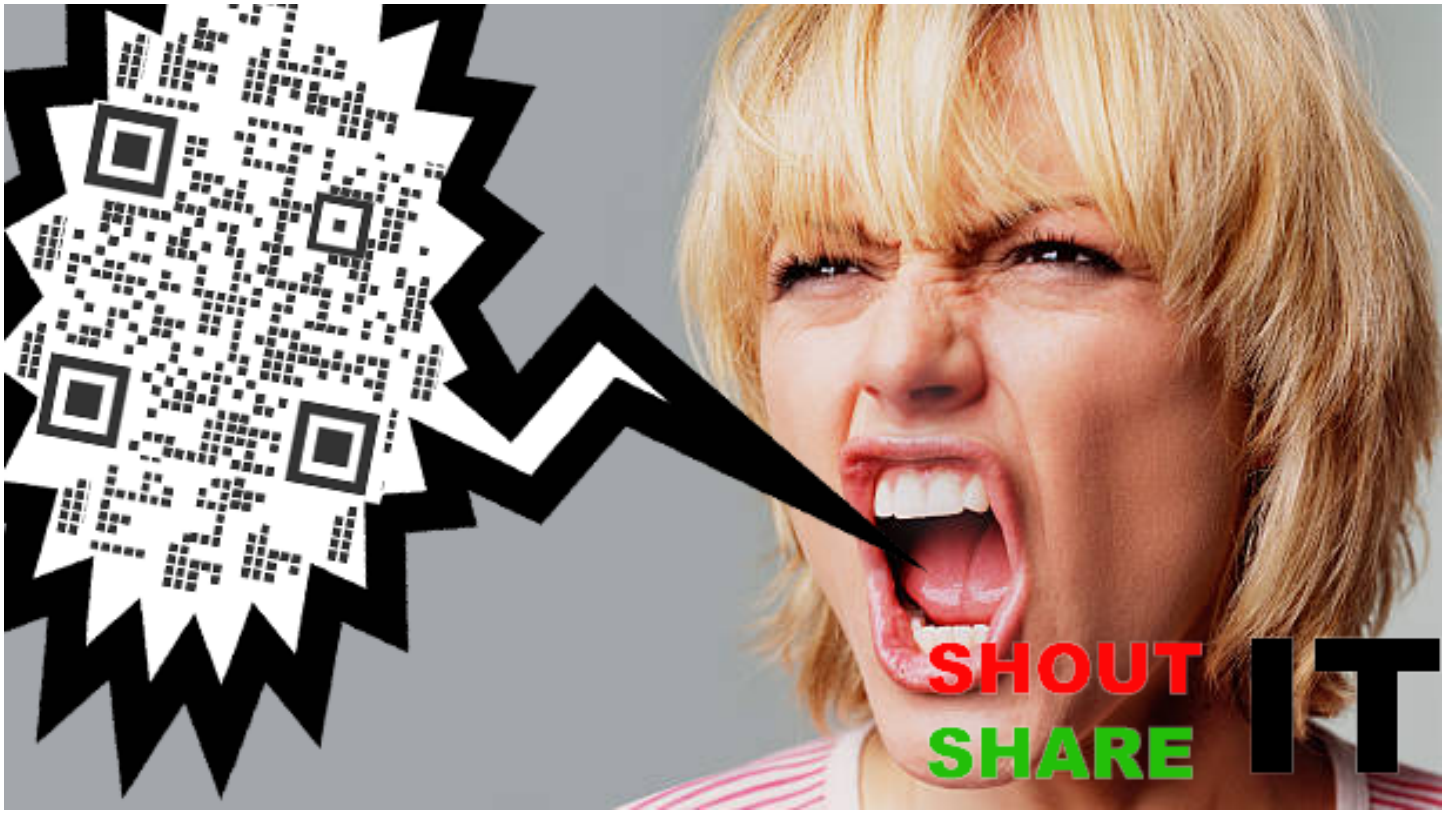
AMIYĀ CHATTERJI

THE CONSTITUTIONAL DEVELOPMENT OF INDIA : 1937-1947.

FIRMA K. L. MUKHOPADHYAY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CONSTITUTIONAL DEVELOPMENT OF INDIA : 1937-1947

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OF INDIA : 1937-1947.

Amiyā Chatterji, M.A., D.Phil.

WITH A FOREWARD BY

PROFESSOR D. N. BANERJEE

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TO

THE MEMORY OF

MY PARENTS

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Foreword

I welcome this handy, readable and well-documented piece of work. It is practically based on the thesis which Mrs. Chatterji submitted in December, 1956, for the D. Phil. Degree of the University of Calcutta. It has been written with judgement,

knowledge and restraint. It embodies the results of Mrs. Chatterji's prolonged and painstaking researches into a very crucial period of Indian History. It presents, in a compact form, a large mass of information generally interpreted with skill and impartiality. On the whole, I consider this work to be a valuable contribution to the political and constitutional history of India during the period with which it deals. I can, therefore, recommend it with confidence to every student of Indian Constitutional History since 1935.

D. N. Banerjee
Surendranath Banerjea Professor and Head of the Department of Political Science and Member of Senate, University of Calcutta.

UNIVERSITY OF CALCUTTA,
17th September, 1958

Preface

This is an attempt to review the constitutional currents and cross-currents in India during the decade, 1937-1947. A study of the causal relation between the events, the aims and objectives of the parties involved and their successes and failures—all these will never fail to inspire the student of politics. Much as I would have liked to make it faultless, I am afraid I could not do so. I crave the indulgence of the reader in this matter.

The thesis, on which this book is based, was submitted in 1956, but at the time of publication I consulted also Dr. Rajendra Prasad's *Autobiography* and Mr. Pyarelal's *Mahatma Gandhi—The Last Phase, Vol. II.* References have, therefore, been made to these books.

I take this opportunity of thanking Professor D. N. Banerjee of the University of Calcutta for all the trouble he has taken to supervise my work. I am grateful to him also for the foreword.

Calcutta,
27th September, 1958.

AMIYĀ CHATTERJI

INTRODUCTION

The dynamics of India's constitutional development led to the passing of the Government of India Act, 1935. It reflected the contemporary stage of the evolution of the Indian constitution.

The three main features of the Act of 1935 were provisions for (1) an all-India Federation ; (2) responsible government with safeguards ; and (3) separate representation of communal and other groups.

The Act contemplated the establishment of an all-India Federation, in which Governors' Provinces[1] and those Indian States[2] which might have acceded were to be united, and in which, moreover, the Chief Commissioners' Provinces[3] were to be included.[4] The Federation was to be established by a Royal Proclamation on an address presented to His Majesty in that behalf by both Houses of Parliament when a number of States, the Rulers whereof were entitled to choose not less than fifty-two members of the Council of State and the aggregate population whereof amounted to at least one-half of the total population of all the Indian States, had acceded to the Federation.[5]

For the purposes of federation, the Governor's Provinces were given autonomy. Under the scheme, each Governor's Province got "an Executive and a Legislature having precisely defined spheres and in that exclusively provincial sphere broadly free from the control of the Central Government and Legislature."[6] Under the Government of India Act, 1919, the Provincial Governments exercised a "devolved and not an original authority. The Act of 1919 and the Devolution Rules made under it, by earmarking certain subjects as 'Provincial subjects', had created indeed a sphere within which responsibility for the functions of government rested primarily upon the Pro-

vincial authorities ; but that responsibility was not an exclusive one, since the Governor-General in Council and the Central Legislature still exercised an extensive authority throughout the whole of the Provinces."[6] Under the scheme embodied in the Act of 1935, "the Central Government and Legislature would, generally speaking, cease to possess in the Governors' Provinces any legal power or authority with respect to any matter within the exclusive Provincial sphere, though .....the Governor-General in virtue of his power of supervising the Governors" would "have authority to secure compliance in certain respects with directions which he" might "find it necessary to give."[6]

As regards the extent of Federal and Provincial laws, the Federal Legislature was to have power to make laws for the whole or any part of British India or for any federated State while a Provincial Legislature was to make laws for the Province or any part thereof.[7] As regards the subject-matters of Federal and Provincial laws, there were three lists : the Federal Legislative list, the Provincial Legislative list and the Concurrent Legislative list.[8] Any subject outside the three lists would be assigned to the Federation or a Province by the Governor-General acting in his 'discretion.'[9] In this way, power was distributed and some sort of distinction of power was, for the first time, made by the constitution itself. In respect of any acceding Indian State, the Federal Legislature might legislate only on matters to be specified in the Instrument of Accession[10].

Provision was made for a Federal Court to secure that the limits placed on the Centre and the Units were duly observed[11].

Another remarkable feature of the Act was the provision for responsible government with safeguards. The executive authority of the Federation was to be exercised by the Governor-General on behalf of the King[12]. He was to be appointed by the Crown by a Commission under the Royal Sign Manual[13]. The Governor-General was to be aided and advised by a Council of Ministers, not more than ten in number. But, in certain specified cases, he was to act in his 'discretion' ; in certain other

specified cases, he was to exercise his 'individual judgment'. Defence, foreign affairs, ecclesiastical affairs and tribal affairs were to be administered by the Governor-General in his discretion[14]. Ministers were not entitled to advise him in these matters[15]. The other departments were to be administered by the Governor-General with the aid and advice of the Council of Ministers[16]. But, in cases where the Governor-General was empowered to exercise his individual judgment, he might disregard ministerial advice[17]. The ministers would be chosen and summoned by him in his discretion and would hold office during his pleasure[18]. No one could continue to be a minister for more than six consecutive months without being a member of the Federal Legislature.[19] The salaries of the ministers would be determined by the Federal Legislature, and, until so determined, would be fixed by the Governor-General, but would not be varied during their term of office[20].

The executive authority of a Province was to be exercised by the Governor on behalf of the King[21] ; and, in the exercise of his powers, the Governor was to be aided and advised by a Council of Ministers[22]. He was empowered to exercise his discretion[23] or individual judgment in certain cases[24]. The Governor would be appointed by the King by a Commission under the Royal Sign Manual[25]. The ministers would be chosen and summoned by the Governor in his discretion and could also be dismissed by him in his discretion[26]. Their salaries would be determined by the Provincial Legislature but could not be varied during their term of office[27].

The provisions of the Act relating to responsible government were supplemented by similar provisions of the Instruments of Instruction issued to the Governor-General and the Governors[28]. While the Act provided for Councils of Ministers to aid and advise the Governor-General and the Governors in all matters except where they were required to act in their discretion, the Instructions contemplated, as far as possible, collective responsibility. Under the Instructions, the Governor-General was to appoint to his Council of Ministers, in consultation with the

person who in his judgment was most likely to command a stable majority in the Legislature, those persons who would be in a position collectively to command the confidence of the Legislature, and, though he was to include the representatives of minorities and the Federated States, he was to foster among them a sense of collective responsibility[29]. Moreover, joint consultation with the ministers was recommended even in those cases where the Governor-General was to exercise his discretion, especially in the matter of defence. The Council of Ministers—and, particularly, the ministry of finance—was to be consulted before the defence estimates were settled and laid before the Federal Legislature[30].

Similarly, the Governor was to choose his ministers in consultation with the man who, in his judgment, was likely to command a stable majority in the Provincial Legislature so that they would collectively command the confidence of the Legislature. In the ministry, he was to include, as far as possible, members of important minority communities. Nevertheless, in appointing his ministers, the Governor was constantly to bear in mind the need of fostering a sense of joint responsibility among them[31].

The principle of the rule of majority, inherent in democratic government, was sought to be modified by the introduction of various safeguards. Thus, there were safeguards for the defence of the country, safeguards for financial stability, safeguards for minorities, safeguards for British commercial interests, safeguards for the rights of the Indian States and safeguards for civil servants. These safeguards were instituted by keeping certain subjects outside effective ministerial control. This was done in two ways. Certain matters were to be administered in their discretion by the Governor-General and the Governors and certain other matters were left to their individual judgment. Regarding the matters which were left to the discretion of the Governor-General and the Governors, ministers had no constitutional right to tender advice[32], though there was nothing to prevent the Governor-

General or Governors from asking for their advice either individually or collectively without being bound to act on it. Regarding those matters where the Governor-General and the Governors were to exercise their individual judgment, their ministers were entitled to advise them but they were not obligated to accept such advice[33].

Thus, in the Federal sphere, the departments of defence, external affairs (except the relations between the Federation and any part of His Majesty's dominions), ecclesiastical affairs and tribal affairs were to be administered by the Governor-General in his discretion. The supplies for these departments were not subject to the vote of the Legislature. In the administration of these departments, the Governor-General was to be assisted by Counsellors responsible to him only. These Counsellors were not to be members of the Legislature though they might take part in its proceedings. The other matters were to be administered by the Governor-General with the aid and advice of his Council of Ministers. But, even with regard to some of these matters, the Governor-General was to exercise his individual judgment. He was required to exercise his individual judgment in discharging some of his functions including what were stated to be his 'special responsibilities'. His special responsibilities related to—(1) the prevention of any grave menace to the peace or tranquillity of India or any part thereof ; (2) the safeguarding of the financial stability and credit of the Federal Government ; (3) the safeguarding of the legitimate interests of minorities[34] ; (4) the securing to, and to the dependants of, the members of the public services of any rights provided or preserved for them by or under the Government of India Act, 1935, and the safeguarding of their legitimate interests ; (5) the prevention, in the executive sphere, of discrimination against British subjects domiciled in the United Kingdom or against companies incorporated there ; (6) the prevention of action which would subject goods of the United Kingdom or of Burmese origin, imported into India, to discriminatory or penal treatment ; (7) the protection of the rights of any Indian

State and the rights and dignity of the Ruler thereof ; and (8) the securing that the due discharge of his functions with respect to matters with respect to which he was required to act in his discretion, or to exercise his individual judgment, would not be prejudiced by any course of action taken with respect to any other matter[35]. For the discharge of his special responsibility for safeguarding the financial stability of the country, the Governor-General might appoint a Financial Adviser in his discretion[36]. For the administration of his reserved departments and the discharge of his special responsibilities, the Governor-General was empowered to promulgate at any time Ordinances valid for six months[37] and to enact Governor-General's Acts in his discretion[38]. Similarly, he had the power to summon the Federal Legislature[39], assent to or veto Bills[40], appoint or dismiss ministers[41], or take over the whole administration of the Federation by a Proclamation in the event of a constitutional breakdown[42]—all in his discretion.

In the same way, the Governor was to act in his discretion in summoning the Legislature[43], appointing and dismissing ministers[44], assenting to or withholding assent from Bills or reserving them for the consideration of the Governor-General[45], and in the administration of excluded areas[46]. He could exercise his individual judgment in some matters, particularly in those relating to his special responsibilities. He had special responsibilities for—(1) the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof ; (2) the safeguarding of the legitimate interests of minorities[47] ; (3) the securing to, and to the dependants of, members of the public services of rights provided or preserved for them by or under the Government of India Act, 1935, and the safeguarding of their legitimate interests ; (4) the securing, in the sphere of executive action, of protection of British subjects domiciled in the United Kingdom or companies incorporated in the United Kingdom against discrimination ; (5)the securing of the peace and good government of areas declared to be partially excluded areas ; (6) the protection of the rights of any Indian State and the rights and dignity of the Ruler thereof ; and (7) the securing

of the execution of orders or directions issued to him by the Governor-General[48].

For the administration of matters relating to his special responsibilities and for the exercise of his discretionary powers, the Governor was empowered to promulgate Ordinances valid for six months[49] or to enact Governor's Acts[50]. He had also the power to take over the whole administration of the Province by a Proclamation in the event of a constituional breakdown[51]. Besides these, his power to give his assent to or withhold his assent from Bills could be exercised for all types of Bills[52].

To the extent provision was made for responsible government at the Centre and in the Provinces, the control of the Secretary of State for India was relaxed. It was relaxed, therefore, to a greater extent in the Provinces than at the Centre. The Governor-General and the Governors (through the Governor-General) were under the control of the Secretary of State for India and, through him, of the British Parliament in so far as they acted in their discretion or individual judgment[53].

The separatist system of representation by religious communities and other groups—instead of representation by the general mass of the people, usual in modern democracies—had been first introduced in India by the constitutional reforms, made under the Indian Councils Act, 1892. Since then, it had been progressively extended by successive schemes of constitutional reforms. Then, it became a prominent feature of the Government of India Act, 1935.

The electoral provisions of the Act of 1935 were governed by the communal decision of the British Government, as modified by the Poona Pact in respect of the Scheduled Castes. Under it, seats in the Legislatures were divided among various communities and groups. Besides, there were separate constituencies for General, Muslim, European, Anglo-Indian, Indian Christian, and Sikh communities. All qualified electors who were not voters in a Muslim, European, Anglo-Indian, Indian Christian or Sikh constituency were entitled to vote in

a General constituency. Some of the General seats were reserved for the Scheduled Castes. All the members of the Scheduled Castes who were voters in a General constituency were to take part in a primary election for the purpose of electing four candidates for each reserved seat. The four persons, so elected, were to be candidates for election by the General electorate. Except in Assam, seats allotted to women also were divided among various communities. Moreover, there were separate constituencies for Labour, Landholders, Commerce and Industry, etc.

The scheme of the Federation, as contemplated in the Act, was not satisfactory in view of the fact that it was an attempt to bring together two disparate elements—the Indian States and the British Indian Provinces—within its scope. The Indian States had been under the autocratic rule of the Princes while the Provinces had been enjoying responsible government to some extent. But, for the purpose of federalisation, these two elements had been brought together. In the proposed Federation, therefore, some sort of friction between the two disparate elements was inevitable. Moreover, a peculiar process was prescribed for the formation of the Federation. The Federation was not to come into being unless a number of States had acceded to it[54]. Accession to the Federation was entirely voluntary on their part whereas it was compulsory on the part of the Provinces. In order to induce the Princes to join the Federation, they were given such concessions as were denied to the Provinces. This reacted upon the whole structure of the Federation. With respect to the States, indeed, the extent of the executive and legislative authority of the Federation would depend upon the terms of the Instrument of Accession to be executed personally by the Ruler of each State.[55] It might, therefore, vary as between the States, though a measure of uniformity was to be insisted upon. In the Federal Legislature, the States were given more than proportionate representation on a population basis. Again, in the Federal Legislature, while the representatives of the Provinces would be elected, representatives of the States would be personal nominees of

the Rulers[56]. The Federal Council of Ministers would ordinarily include elected members, so far as representatives of British India were concerned, and nominated members, so far as representatives of States were concerned. The States were given further concessions in matters of finance[57].

Furthermore, the relation between the Federation and the Units was, in many respects, a legacy of the old, centralised system of government. Provincial autonomy was subject to serious limitations by the provision that Provincial executive authority must be so used as not to interfere with the exercise of the executive authority of the Federation, and the executive authority of the Federation extended to the giving of directions to a Province to secure that objective.[58] The Governor-General could veto a Provincial Bill reserved for him,[59] and, on certain occasions, the Federal Legislature could legislate on Provincial matters.[60]

The safeguards were such as might be utilised to reduce responsible government to nullity. The discretionary functions and special responsibilities of the Governor-General and the Governors covered practically the whole field of the administration. The Governor-General and the Governors were constitutionally empowered to act, in certain cases, against the advice of their ministers and, in certain other cases, without asking for their advice. Responsible government was more circumscribed at the Centre than in the Provinces, for, at the Centre, certain important departments like defence and external affairs were kept as reserved.

With powers of constitutional amendment remaining in the hands of the British Parliament, and Parliament's responsibility for Indian administration, India's constitutional status as a dependency was not much improved upon.

The communal decision of the British Government accentuated the communal dissension in the country, which paved the way for the partition of India.

CHAPTER I

INAUGURATION OF THE SCHEME OF THE ACT OF 1935.

A. Indian Reaction To The New Constitution.

The Government of India Bill received Royal assent in August, 1935[1]. The British Government decided that Provincial autonomy would be introduced on 1st April, 1937[2], leaving Federation to follow later. The electoral provisions[3] began to operate on 3rd July, 1936[4], and the provisions for Provincial autonomy on 1st April, 1937.

From the very beginning, the Congress was opposed to both the Federal and the Provincial parts of the scheme of constitutional reforms. When, in 1935, the report of the Joint Committee on Indian Constitutional Reform came to the Indian Legislative Assembly for consideration, Mr. Desai (Congress), Leader of the opposition, moved an amendment, recommending to the Governor-General in Council to advise the British Government not to proceed with any legislation based on the said scheme[5]. That amendment was lost.[6] Nevertheless, the Congress and the Muslim group in the Assembly jointly passed an amendment moved by Mr. Jinnah, denouncing the Federal part as unacceptable and also criticising the Provincial part[7].

The Congress found the whole scheme objectionable as a denial both of India's right to immediate independence and of the principles of democracy. It was opposed to the proposed Federal scheme because (according to the Congress) vital functions of the Government were excluded from the sphere of responsibility. With defence and external affairs as reserved subjects, added to the special responsibilities and the veto power of the Governor-General, there remained no responsibility

at the Centre. Thus, the Indian people could not control their own external and internal defence, their external relations, their own fiscal policy, their currency and exchange and their day-to-day administration[8].

The Congress found nothing to choose between the Centre and the Provinces[9]. According to it, under the Provincial scheme, the ministers would be placed between the devil and the deep sea, with the Governors with their extraordinary powers on the one side and the protected services on the other[9].

Again, in the Federal structure, there was a juxtaposition of the nominees of the autocratic Princes of the Indian States and the democratically elected representatives of the people of British India[10]. Here, again, another point may be noted. In the composition of the Federal Legislature there was a heavy weightage in favour of the autocratic States. The total population of the Indian States was roughly 24% of that of the whole of India. Nevertheless, the Rulers of the States had been given 33 per cent of the seats in the lower house and 40 per cent of the seats in the upper house of the Federal Legislature. The Princes were thus placed in a privileged position. This was wholly unacceptable to the Congress[11].

The Congress also criticised the communal decision. In 1935, while the report of the Joint Committee on Indian Constitutional Reform was being debated in the Indian Legislative Assembly, Mr. Desai (Congress), Leader of the opposition, had moved an amendment, desiring to exclude the communal decision from the realm of political controversy[12]. This amendment was lost[13]. Mr. Jinnah's amendment, accepting the communal decision, was accepted by the house, the Congressmen remaining neutral[14]. Later on, in October, 1937, at the meeting of the All-India Congress Committee, the following pronouncement was made : "The Congress is opposed to this decision as it is anti-national and anti-democratic and is a barrier to Indian freedom and the development of Indian unity. Nevertheless, the Congress has declared that a change in or supersession of the communal decision should only be brought about by mutual agreement of the parties concerned".[15]

Thus, the Congress leaders repudiated the whole scheme of constitutional reforms embodied in the Act of 1935. It declared that "no constitution which curtails the sovereignty of the people of India and does not recognise their right to shape and control fully their political and economic future can be accepted".[16] The Congress also pointed out that a constitution acceptable to it must be "based on the independence of India as a nation and it can only be framed by a Constituent Assembly elected on adult franchise or a franchise which approximates to it as nearly as possible".[16] The demand for a Constituent Assembly had already been put forward by the Congress Working Committee as early as 1933, and, thereafter, it had been accepted at its general session in October, 1934.[17] The idea of a Constituent Assembly, thus introduced, was repeated at subsequent sessions of the Congress and became one of its most pressing demands.

Though the Congress repudiated the whole Act, it contested the elections in 1937, but on the pledge that it would enter the Legislatures with the purpose of combating the Act.[18] The convention of the newly elected Congress members of Legislatures, that met on 19th and 20th March, 1937, laid down that it would be the policy of the Congressmen in the Legislatures to fight the new constitution and to resist the introduction and working of the Federal part of the Act. Side by side with this, the Congress pressed the demand for a directly elected Constituent Assembly.[19]

Most of the influential members of the Muslim community had a mortal dread of a Hindu majority at the Centre. That is why they had claimed residuary powers for the Provinces so that the Centre might become weak.[20] Under the Act, however, that was not the case. On this principal ground, not quite explicitly stated, and on some other grounds, explicitly stated, the Muslim group in the Central Assembly joined with the Congress in rejecting the fundamentals of the constitutional scheme of the Government of India Act, 1935.[21] There was, therefore, a difference in emphasis between the view-points

of the Congress and the Muslim group in the Assembly. Mr. Jinnah's amendment to the motion for taking into consideration the report of the Joint Committee on Indian Constitutional Reform, which was accepted by the house, ran as follows : ".....As regards the scheme of Provincial Governments, the House is of opinion that it is most unsatisfactory and disappointing inasmuch as it includes various objectionable features ..... Therefore, unless these objectionable features are removed, it will not satisfy any section of Indian opinion.

"With respect to the scheme of the Central Government called 'All India Federation', this House is clearly of opinion that it is fundamentally bad and totally unacceptable to the people of British India and, therefore, recommends to the Government of India to advise His Majesty's Government not to proceed with any legislation based on this scheme .... ".[22]

Mr. Jinnah was more against the Federal scheme than against the scheme relating to Provincial autonomy whereas the Congress was equally emphatic against both. Mr. Jinnah condemned everything in the Federal scheme apparently for the reason that it contained only "98 per cent of safeguards and 2 per cent of responsibility", but he considered the Provincial scheme as an advance on the then existing position and, therefore, would not like to reject it altogether.[23] At its Bombay session held in April, 1936, the All-India Muslim League passed a resolution declaring that the All-India Federal scheme of Central Government, embodied in the Government of India Act, 1935, was fundamentally bad and that it was most reactionary, retrograde, injurious and fatal to the vital interests of India. It, therefore, asked the British Parliament to review the whole situation afresh regarding the Central scheme before it was inaugurated. As regards the Provincial scheme, it expressed the opinion that it should be utilised for what it was worth in spite of the most objectionable features contained therein.[24]

Mr. Jinnah's mind was fully revealed in 1938. At the Patna session of the Muslim League, he said that Congressmen

would not object to the Federation if they had their own majority at the Centre. According to him, they wanted to establish an authoritative, totalitarian and "Fascist Hindu Raj." Mr. Jinnah warned his audience that the Congress had a majority in seven Provinces and, in others, although it had no majority, it was striving its utmost to delude the Muslims into believing that the League was an ally of imperialism and the imperialistic Government and thereby alienate them from the League. He added that the Congress wanted sufficient powers at the Centre solely to direct its activities against the Governments in those Provinces where the Muslims were at the helm of affairs. Further, by means of the Federation, the Congress would be able to reduce the four Muslim Provinces into mere feudatories.[25]

It is clear, therefore, that, from the very beginning of the new scheme of reforms, the communal leaders of the Muslim community looked upon the Federal and the Provincial parts of that scheme differently—to condemn the former unreservedly and unequivocally but to criticise the latter a bit hesitatingly. The Congress, however, rejected both the parts with equally strong emphasis.

So far as the Indian States were concerned, their attitude was peculiar. In the earlier period of the Round Table Conference, the Princes had expressed their readiness to join the Federation provided that certain conditions were fulfilled. While naturally determined to maintain their internal 'sovereignty', they were prepared, and indeed anxious, to share with the British Indian Provinces in directing the common affairs of India.[26] Soon, however, their attitude changed. In spite of the various sorts of special considerations given to the States for persuading them to enter the Federation, they failed in the end to accept those minimum conditions of union without which a federation is impossible. The course of events went against the establishment of the Federation. With the introduction of Provincial autonomy, the Princes were afraid that it would react unfavourably on the internal autonomy of the States. The period following the promulgation of the Govern-

ment of India Act, 1935, saw "protracted negotiations" during the course of which the "draft of the Instrument of Accession underwent several changes for the worse".[27] Finally, for reasons which will be explained later on, the Federal part was suspended by the British Government on 11th September, 1939.[28]

Many thinkers hold the view that the Congress should have accepted the Federal part. According to Professor D. N. Banerjee, the "defects and anomalies"[29] were bound to disappear in a few years even if the scheme was brought into operation as it was. He holds the view that "the real merit of the Federal scheme.....lies in an attempt at realising, perhaps for the first time in the history of this country, the fundamental unity of India as a whole, in spite of its infinite variety of interests, by bringing the territories under the Princes into a closer and more intimate contact with British India for the service of the country".[29]

Indeed, it seems that, at a later stage, sometime in 1938, the Congress had tended towards acceptance of the Federal part. Dr. P. Sitaramayya says, "There were suspicions floating about in the air that Gandhi or some of his colleagues had expressed themselves in favour of accepting the Federal part of the Government of India Act (1935) or even entered into a pact with the British to work it".[30] This tendency was bitterly condemned by Mr. Subhas Chandra Bose who was then President of the Congress. He even threatened to resign from the Presidentship of the Congress in order to be free to carry on an agitation against the Federal scheme. The question of the acceptance of the Federation got mixed up with the controversy between Mr. Subhas Bose and the right wing of the Congress over the Congress Presidential election. The election was to take place on the 29th of January, 1939. According to press reports, there were three candidates—Maulana Abul Kalam Azad, Dr. Pattabhi Sitaramayya and Mr. Subhas Bose. On the 20th of January, 1939, Maulana Azad withdrew. At the same time, he recommended Dr. Pattabhi to the delegates. On the 21st of January, 1939, Mr. Subhas Bose issued to the

press a statement to the effect that the Presidential election involved a choice between principles and programmes, and that, in view of the increasing international tension and the prospective fight over the Federation in India, "the year (1939) would be a momentous one"[31] in the history of India. This statement was refuted by a counter-statement by six members of the Congress Working Committee issued from Bardoli on the 24th of January, 1939. The statement said that all the members of the Congress Working Committee were equally opposed to the Federation as Mr. Bose himself. To this Mr. Bose rejoined, "It is widely believed that there is a prospect of a compromise on the Federal scheme between the right wing of the Congress and the British Government during the coming year"[31]. He repeated the charge in a positive manner on the 27th of January : "Can any body challenge the fact that a belief is widely held that during the coming year a compromise will be effected between the British Government and the right wing of the Congress? This impression may be erroneous, but it is there all the same and nobody can deny its existence. Not only that. It is generally believed that a prospective list of Ministers for the Federal Cabinet has been already drawn up."[31]

When Mr. Subhas Bose was re-elected President of the Congress defeating his rival Dr. Pattabhi, Gandhiji remarked, "the defeat is more mine than his,"[32] since he was "instrumental in inducing Dr. Pattabhi not to withdraw his name."[32] Gandhiji's remark is not a little significant in view of the bitter opposition of Mr. Bose to the Federal scheme of the Government of India Act, 1935. So deep was the cleavage between Mr. Bose and the right wing of the Congress that, after the Presidential election, 13 out of the 15 members of the Congress Working Committee resigned on the 22nd of February, 1939, after an informal conference with Gandhiji at Wardha.[33] Mr. Bose had, however, ultimately to resign his Presidentship as he did not feel equal to the task of forming a Working Committee.

So far as the acceptance of the Federation was concerned, matters were set at rest by a resolution passed at the Tripuri session of the Congress declaring its "uncompromising opposition to the Federal part of the Act and its determination to resist its imposition".[34]

B. Central Government During The Transitional Period

It has already been pointed out that the Provincial part of the Act of 1935 was introduced on 1st April, 1937. Pending the establishment of the Federation, the Central Government was to operate in accordance with the 'Transitional Provisions'[35], read with the Ninth Schedule of the Act. Under the latter, certain provisions of the Government of India Act were continued in force, with amendments. The amendments were necessitated by the introduction of Provincial autonomy.

Under this system, the Central Executive was the Governor-General in Council. The Governor-General and the members of the Council were appointed by the King by warrant under the Royal Sign Manual.[36] The number of the members of the Council was not fixed, but three at least of them must have served under the Crown in India for at least ten years and one must have been a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, or a pleader of a high court, of not less than ten years' standing.[37]

The Governor-General had the power to make rules and orders for the more convenient transaction of business in his Executive Council.[38] The Governor-General presided over the Council's meetings.[39] He was also to appoint a member of the Council as Vice-President.[40]

The Governor-General was generally bound by the decisions of the majority of the Council. In case of a tie, he or other person presiding had a casting vote.[41] But, and this is very important, the Governor-General could set aside the decision of the majority for the safety, tranquillity or interests of British India or any part thereof.[42] In this way, he had

almost a general power to veto the decisions of the majority of his Executive Council. The Governor-General was responsible to the British Parliament through the Secretary of State for India.[43] In September, 1939, the Executive Council of the Governor-General consisted of seven members. Of these, three were Indian and four British.[44]

The Central Legislature, known as the Indian Legislature, was composed of the Governor-General and two chambers—namely, the Council of State and the Legislative Assembly.[45] The Council of State was composed of not more than sixty members.[46] Of these, thirty-three were elected members and the rest were nominated officials and non-officials. It was laid down in the Government of India Act that the Legislative Assembly was to consist of members nominated or elected in accordance with rules made under the Act. The total number of members provisionally fixed by the Act was one hundred and forty.[47] Still, there was provision for increasing by rules the total number so fixed and to vary the proportion that the classes of members bore one to another, so, however, that at least five-sevenths of the members should be elected members and at least one-third of the other members should be non-official members.[48] The Council could sit for five years and the Legislative Assembly for three years.[49] But either house could be dissolved earlier by the Governor-General who could also extend its term.[50] The Legislative Assembly, elected in 1934-35, continued till 1945, when fresh elections were held.[51]

The Legislative Assembly could discuss and vote on demands for grants submitted to it on the recommendation of the Governor-General (a proportion of the expenditure not being subject to the vote of the Indian Legislature).[52] The Governor-General in Council had the power to restore any demand refused or reduced by the Assembly if he thought it necessary for the discharge of his responsibilities. Besides, in cases of emergency, he could authorise such expenditure as he considered necessary for the safety or tranquillity of British India or any part thereof.[53]

Similarly, the Governor-General had power to override the Legislature in certain cases. A Bill passed by the chambers of the Indian Legislature required the assent of the Governor-General. He could give his assent, withhold his assent or reserve the Bill for the Crown.[54] A copy of the Bill, assented to by the Governor-General, was to be sent to the Secretary of State for India and the Crown had the power to disallow it.[55] In cases of emergency, the Governor-General could promulgate Ordinances valid for six months, subject to disallowance by the Crown.[56] Where either chamber of the Indian Legislature refused to pass a Bill in the form recommended by the Governor-General, the Governor-General might certify that the passage of the Bill was essential for the safety, tranquillity or interests of British India or any part thereof, and, on receiving the signature of the Governor-General, it would become an Act of the Indian Legislature.[57] Every such Act was to be laid before both Houses of Parliament and was not to have effect until assented to by the Crown.[58]

The powers conferred by the Act of 1935 on the Federal Legislature would be exercised by the Indian Legislature.[59]

The Governor-General in Council and the Governor-General would be under the general control of the Secretary of State for India and would comply with such directions as might be given by the Secretary of State.[60] It had been an accepted principle since the Montagu-Chelmsford reforms that the Secretary of State would not ordinarily interfere in Indian administration where the Governor-General in Council agreed with the Legislature.

Even though the Federation was not established, the Federal Court came into existence and performed such functions in relation to British India as it was required to do under the Act of 1935.

C. The Working Of Provincial Autonomy, 1937-39.

After the general elections, held in the winter of 1936-37, the Congress found itself in an absolute majority in the Legislative

Assemblies of five Provinces, namely, Madras, the United Provinces, the Central Provinces, Bihar and Orissa. In Bombay, the Congress, along with two or three pro-Congress groups, could command a majority. In the North-West Frontier Province and in Assam, it was the largest single party.[61] Under the direction of the A. I. C. C., the Congress refused to accept office in any Province unless the Governor gave an assurance that he would not use his special powers of interference and would not set aside the advice of the Provincial Council of Ministers in regard to their constitutional activities.[62] The Governors, therefore, appointed minority Ministries in the Congress-controlled Provinces.[63] The constitutional deadlock, however, was amicably settled. In a declaration on 22nd June, 1937, the Governor-General gave the assurance that there was no foundation for any suggestion that a Governor was free, or was entitled, or would have the power, to interfere with the day-to-day administration of a Province outside the limited range of responsibilities confined to him. Those special responsibilities were, the Governor-General asserted, restricted in scope to the narrowest limits possible. Further, within that narrow range, the Governors were anxious not merely not to provoke conflicts with their Ministries, but to leave nothing undone to avoid and to resolve such conflicts. Moreover, if the ministers were overruled, the only honourable course left open to them was resignation, but this question would only arise when an issue between the Governor and his ministers constituted a serious disagreement.[64] After this assurance, minority Ministries were discontinued, and Congress Ministries were formed in the N. W. F. P., the U. P., the C. P., Bihar, Bombay, Madras and Orissa.[65] Assam joined the group in September, 1938, after a year of non-Congress Government.[66]

While the Congress waited for the Governor-General's assurance, non-Congress Ministries were formed in those Provinces where the Congress was in a minority. In Bengal, no single party was in a majority in the Legislative Assembly. A coalition was, therefore, formed between the Muslim League and the Praja Party under the leadership of Mr. Fazlul Huq,

leader of the Praja Party.[67] In the Punjab, the National Unionist Party had secured a clear majority at the elections of 1937. Its leader was Sir Sikandar Hyat Khan who formed the Cabinet.[68] In Assam, where no party could secure an absolute majority, Sir Mahammad Saadulla, an eminent Muslim leader, formed a Government, and, with the support of the Muslim groups, the Europeans and a few Independents, he just secured a majority for continuing in office.[69] It was, however, a precarious majority, and, in September, 1938, when four no-confidence motions were tabled, he resigned.[70] On his resignation, Mr. Gopinath Bardoloi (Congress) formed the Government.[71] In the Sind Assembly, the Sind United Party was the largest group and Sir Ghulum Hussain Hidayatullah formed a Ministry. But, in March, 1938, the Ministry had to resign.[72] Thereupon, Khan Bahadur Allah Bux formed a Government and was sustained in office through Congress support.[73]

The working of the Act of 1935 showed that, though the Congress had accepted office not exactly with a view to working the constitution according to the spirit of the constitution, the services and the Governors offered co-operation in a manner which tended towards the establishment of healthy conventions of parliamentary government. This co-operation was recognised by the Congress and earned for it the criticism that it was drifting towards constitutionalism.

Though the Governors still presided over the meetings of the Cabinets, they could not set aside ministerial advice without provoking a constitutional crisis. In a case, where the Governor dismissed certain of his ministers who had refused to resign, it brought forth a bitter condemnation from the Congress.[74]

As regards the Governor's special powers regarding legislation, there are only two cases on record, when the Governor of the N. W. F. P. vetoed Bills. The Governor's power to legislate by discretionary Ordinance was never used in the Congress Provinces. It was, however, used in Sind in 1939.[75]

Apart from the conventions governing the relations between

the Governor and his ministers, the relations between the ministers and their party outside the Legislature also were being regularised. It so happened that, when the Congress high command agreed to the acceptance of office, it established a central controlling authority to see to ministerial appointments. Again, after the Ministries were formed, a Chief Minister could not dismiss a minister or appoint a new minister without the sanction of the Congress Parliamentary Sub-Committee. It was the Working Committee of the Congress which prepared important declarations of policy, the programme of action being the same for all the Congress Provinces. In the execution of these, the ministers had to consult the Working Committee of the Congress or its Parliamentary Sub-Committee.[76] This control by the party outside the Legislature has been criticised by Mr. Coupland as a contravention of the principle of responsible government, for "Ministers were only in form responsible to the majorities of the legislatures elected by the people; in fact, they and the majorities too were responsible to the Working Committee and the Parliamentary Sub-Committee" of the Congress.[77] This criticism loses much of its force in view of the fact that, in India, during the period under review, the Congress was a revolutionary organisation. It had accepted office in order to render what it had considered the obnoxious parts of the constitution unworkable. So, the party high command had to enforce a uniform policy through the Provincial Ministries. Moreover, the Instrument of Instructions issued to the Governor would, by itself, help the development of a well-knit party system, for the Governor was instructed to form his Council of Ministers in consultation with the person who was likely to command a stable majority in the Legislature. Now, an all-India party, with a uniform policy for the whole of India and with a strict control over the party members returned to the Legislatures, could meet the circumstances better than Provincial parties with local policies and programmes and with no control over the party members elected to the Legislatures. An all-India party could counteract the tendencies to parochialism by its all-India policy and programme. By

its superintendence and direction, the party could always focus the attention of the members of the Provincial Legislatures on national, in preference to Provincial, needs.

The circumstances, indeed, were difficult. There were powerful tendencies towards disintegration. To begin with, Provincial autonomy itself was a disintegrating factor. The grant of autonomy had been an admission of the separatist attitude of the Provinces, and this attitude received further encouragement from the grant. The disintegrating tendencies could be checked by the growth of a party or parties which could have commanding influence in all the Provinces. Indeed, such parties were growing, but no party could ultimately achieve a fully national character. Moreover, communal electorates cut into the growth of a national feeling. Thanks to the extension of the system of separate communal representation with statutory allocation of seats through separate (communal) electorates and to the creation of new Provinces,[78] it so happened that, in the constitutional set-up under the Act of 1935, certain Provinces had Legislatures with the largest number of seats ensured for the Muslims. These were Bengal, the Punjab, the N. W. F. P. and Sind. We have seen earlier that the Congress hold over these Provinces excepting the N.W. F. P. was weak. These Provinces (excepting the N. W. F. P.) were under the control of Muslim parties. Thus, from 1937, India came to be divided, as it were, into two zones—Muslim and non-Muslim. Enough spade work was, therefore, done for the future demand for Pakistan.

It was also during this period that party dissensions reached a point at which nationalism itself was at stake. It may be recalled that the Act of 1935 conferred on the Governor-General and Governors special responsibilities for the protection of the rights of minorities. The working of the Act showed that the Muslim League did not fail to take advantage of this, to show that their rights and interests were jeopardised under the Congress regime. The Muslim League was pledged to protect the religious rights of the Muslims and to protect and promote

the Urdu language and Persian script.[79] In 1937, the League offered to form coalition Governments with the Congress. This offer was rejected by the Congress. Then, the League became very bitter and construed this refusal to be an attempt on the part of the Congress to wipe out all other parties. Henceforth, the League carried on an intense propaganda against the Congress and strengthened its hold over the Muslim masses. The use of the Bande Mataram song, the tri-colour flag, the Vidya Mandir Scheme, the mass-contact movement, Hindu-Muslim riots and the Hindi-Urdu controversy—all these provided occasions of complaint against Congress administration.[80] It is true that the Congress sometimes under-estimated the Muslim sentiment. But, the issues were small beside the larger issue of the independence of India. And, it is equally true that the Hindus of the Muslim-majority Provinces were feeling bitterly about the administration there, and, on some occasions, the Hindu leaders demanded the intervention of the Governors.[81]

In the summer of 1939, the League Working Committee passed a resolution, instructing Provincial branches of the League not to settle anything with the Congress and to refer all proposals for settlement to the League high command.[82] On 27th August, 1939, the Council of the Muslim League passed a resolution in which it complained that the Governors as well as the Governor-General had failed to protect the interests of the Muslims—that the Governors and the Governor-General had not exercised their special powers for the protection of the minorities. As regards the future constitution of India, the League began to attack the Federal scheme more sharply than before, and now its main point of criticism was that, under the Act of 1935, the Congress would be in a dominant position. It declared its firm intention to resist the Government of India Act, 1935.[83] These were sufficient indications of the storm that was brewing. Already, in 1938, the Provincial Conference of the League at Karachi had passed a resolution, recommending to the All-India Muslim League to review and revise the entire question of a suitable constitution for India which would secure the honourable status due to the Muslims, and disapproving of

the all-India Federation embodied in the Act of 1935.[84] The Working Committee of the Muslim League appointed a Committee on 25th March, 1939, to examine various schemes of constitutional reforms that had already been put forward to secure the rights and interests of Muslims in India.[85] Thus, it was from 1937 that the League had been strengthening itself and raising its voice, demanding shortly a separate state for the Muslims.

How far was the Congress responsible for this ? It seems that the Congress allowed its claim to represent all the people of India to go by default. In the elections of 1936-37, the Congress practically did not contest the Muslim seats. The total number of Muslim seats in the Legislative Assemblies of the eleven Provinces was 482. The Congress contested only 58 seats and won 26.[86] The Congress thus forfeited its position as the representative national organisation of all the Indians, irrespective of caste or creed. As a result, the League emerged as the champion of the Muslim cause.

Secondly, the Congress under-estimated Muslim sentiment. Being composed mainly of Hindus and of a handful of Muslims, the Congress failed to weigh correctly those little things which could irritate the Muslim masses. The League constantly harped on those things to show to the Muslim community that its salvation lay in the hands of the League.

CHAPTER II

POSTPONEMENT OF THE FEDERAL SCHEME

On 3rd September, 1939, the British Government declared war against Germany. On the same day, the Governor-General issued two proclamations to the effect that war had broken out between His Majesty's Government and Germany and that a grave emergency existed whereby the security of India was threatened by war[1]. The Governor-General made it clear that India was at war with Germany and he appealed to the people of India for making their contribution to the side of human freedom against the rule of force.[2]

Before the actual declaration of war, the political horizon had been clouded enough to show that war was near, and preparations for that had been going on from the Government's side. A few months before the war had broken out, Indian troops had been sent out first to Aden and then to Egypt and Singapore.[3] Another significant event was the amendment of the Government of India Act, 1935,[4] so as to give the Central Government powers of direction and control over Provincial Governments. Moreover, the term of the Indian Legislative Assembly had been extended by the Governor-General.

By the Amendment Act, a new section, namely, 126-A, was inserted after section 126 of the Government of India Act, 1935. Under it, when a Proclamation of Emergency was in operation, the executive authority of the Federation was to extend to the giving of directions to a Province as to the manner in which the executive authority thereof was to be exercised, and the Federal Legislature (Central Legislature was to have power to make laws for a Province even on Provincial subjects conferring executive authority upon the Federation (the Central Government) or its officers. Its purpose was, in a word, "to furnish the Central Government, in the event of war, with executive authority throughout the country"[5]

The amendment, obviously, was to fill a gap left by the Government of India Act, 1935. This Act had, by S. 102, empowered the Federal Legislature to legislate on Provincial matters in the event of a Proclamation of Emergency. But, it had said nothing about the extent of the Federal executive authority over Provincial matters specifically in case of emergency though, of course, it had, by Section 126, empowered the Federal Executive to "give directions" to the Provinces in respect of Provincial matters in certain well-defined cases (not specifically including occasions of emergency whereby the security of India might be threatened by war). As a result, under the Government of India Act, 1935, as it stood, in cases of emergency, it would have been difficult for the Central Government to issue directions to the Provinces in respect of Provincial matters and "the Central Government would not be competent to include, in any Act relating to subjects lying normally in the Provincial field, provision to enable the Central Executive to make rules on the subject-matter of the Act in question ; nor would the Central Government be competent to confer upon its own officials executive powers in relation to Provincial subjects."[6]

While moving the second reading of the Bill on 25th April, 1939, in the House of Lords, Lord Zetland, the Secretary of State for India, explained that, as the successful prosecution of a modern war required certain measures of 'unified control', not only of policy, but of its execution, the conferment of the new powers on the Central Government of India—powers not only of 'superintendence but of direction and control'—became justified.[7] He added that, at his request, the amendments embodied in the Bill had been sent to the Provincial Governments through the Governor-General for their comment, and that the majority of the Provincial Governments had raised objection to the invasion by the Centre of the share of authority conferred by the Act on the Provinces.[8]

It must be remembered that the powers of control granted by sections 102 and 126 of the Act of 1935 had been given to a Federal Legislature that was to be elected on a wide popular

franchise and to a Federal Executive that was to be largely responsible to the Legislature, whereas the Amendment Act empowered a much less democratic Central Legislsture and an irresponsible Central Executive (the Central Government then operating in accordance with the Transitional Provisions of the Government of India Act, 1935) to control the Provinces in the same manner.

Articulate Indian opinion could not reconcile itself to this encroachment which, according to it, further proved that the British Government could not trust Provincial Governments to co-operate with the Central Government in the matter of activities connected with war.

The Congress took exception also to the sending of Indian troops outside India.[9] As early as 15th February, 1938, the Central Legislative Assembly had passed the following resolution sponsored by the Congress Party :—"This Assembly recommends to the Governor-General in Council that, in order to associate the elected members of the Central Legislature with the Indian Army, early provision should be made for the election of a Standing Committee of the Indian Army, and that the functions of the said Committee shall include tendering advice to the Governor-General in Council on such matters as he may refer to the Committee from time to time, with particular reference to the sending of Indian troops outside India."[10] Thus, the Central Legislature had declared its will that, without consultation with it and without its advice, Indian troops should not be sent abroad. When troops were sent to Aden, the A.I.C.C. expressed its disapproval of the despatch of Indian troops to foreign countries. Now, troops were sent to Egypt and Singapore without the advice of the Legislature.[11] The action of the Government was defended by Lord Zetland on the ground that the party leaders in the Central Assembly, including Mr. Bhulabhai Desai, the Congress leader, were confidentially informed of the Government's intention to send troops sometime before they were actually despatched. "It would clearly have been the height of folly", said Lord Zetland, "to give advance

notice to the world by means of discussion in the Legislative Assembly in India of our proposed military dispositions"[12] Dr. Sitaramayya observes, "Did his Lordship imply that this intimation was tantamount to consultation and securing of permission and, when it was obviously not so, was it his Lordship's grievance that these leaders did not raise a howl in the press or on the platform ? The complaint would not lose its point because political leaders were intimated the movements of Indian troops to places beyond the seas. Surely his Lordship could admit that whatever news was broken to the political leaders was conveyed in strict confidence and with the charge of absolute secrecy."[13] If it was the intention of the Government that the war preparations should not be given publicity, a secret session of the Legislative Assembly could have been summoned. The fact that the Government did not care to consult the Legislature proved only that India was a dependency and nothing else. The Congress Working Committee, at its meeting from 9th to 12th August, 1939, strongly resented the decisions of the Government. The Working Committee could not accept those decisions (reference was made also to the extension of the life of the Central Assembly by another year) of the British Government and resolved to dissociate itself from the British Government and to take such steps as were thought to be necessary to give effect to the Congress policy. As a first step to this end, the Committee called upon all Congress members of the Central Legislative Assembly to refrain from attending the next session of the Assembly.[14]

It may be noted here that, after the war had been declared, the Chatfield Committee's report was made available to the Indian public. This Committee had been appointed in 1938 to indicate "the role of the Land and Air Forces of India in relation to the Defence problems of India and the Empire." The report recognised the liability of India for the defence of the British Empire. According to the report, the size of the Army in India should thereafter be decided not entirely by the Government of India but in consultation with the British Government, and

its functions should be regulated to a certain extent by Imperial necessities. Under this extended responsibility for the defence of certain strategic points in the west and in the east—Aden, Egypt and Singapore—India was to shoulder an increasing burden.[15]

For meeting this extended responsibility for the defence of her outposts in the east and in the west, and for mechanisation and modernisation of the fighting forces, India's finances were not enough. Therefore, the British Government accepted the recommendation of the Chatfield Committee to make a free gift of Rs. 33 crores and a half to be spread over five years and another 11 crores as a loan to be repaid in instalments to be spent on the reorganisation and rearmament of the fighting forces.[15]

When the war was declared on 3rd September, 1939, the Defence of India Ordinance promulgated by the Governor-General empowered the Central Government to make such rules as appeared to it to be necessary or expedient for securing the defence of British India, public safety, the maintenance of public order, or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the country.[16] On 5th September, the Defence of India Bill (the Ordinance in the form of a Bill) was introduced and it passed the Indian Legislative Assembly on 20th September.[17] "Unified control" was established and Provincial autonomy was largely curtailed.

On 8th September, 1939, a Gazette of India Extraordinary notified the grant of power to Provincial Governments including Chief Commissioners to control prices of articles, subject to certain conditions. The power was to be exercised in respect of necessaries, such as medical supplies, foodstuffs, salt, kerosene oil and the cheaper qualities of cotton cloth.

At this time, on the 11th of September, 1939, in an address to a joint session of both houses of the Central Legislature, the Governor-General declared, "I will add only one word more

in regard to our federal preparations. Those preparations, as you are aware, are well advanced and great labour has been lavished on them in the last three years. Federation remains as before the objective of His Majesty's Government ; but you will understand, gentlemen, without any elaborate exposition on my part, the compulsion of the present international situation and the fact that, given the necessity for concentrating on the emergency that confronts us, we have no choice but to hold in suspense the work in connection with preparations for federation, while retaining federation as our goal."[18] Thus, the Federal scheme embodied in the Act of 1935 was held in suspense.

This announcement of the Governor-General had no appreciable effect on the attitude of the Congress. But, the Muslim League felt happy at the suspension of the Federal scheme. The League, however, demanded a scrapping off of the Federal scheme altogether ; for, it apprehended Hindu domination in a democratic all-India Federation. Just after the Viceroy's declaration, the Working Committee of the Muslim League met on 18th September, 1939, and passed a resolution, the relevant portions of which are quoted below :—

"The Working Committee appreciate the declaration of H. E. the Viceroy, which is in the interest of India and particularly the Mussalmans, that the Federal scheme embodied in the Government of India Act, 1935, has been suspended. They wish that, instead of being suspended, it had been abandoned completely, and desire to convey to His Majesty's Government that they should do so without further delay. The Committee desire to make it clear that they do not endorse the "Federal objective" of His Majesty's Government referred to by H. E. the Viceroy in his address to the members of the Central Legislature and strongly urge upon the British Government to review and revise the entire problem of India's future constitution *de novo* in the light of the experience gained by the working of the present Provincial constitution of India and

developments that have taken place since 1935 or may take place hereafter.....

".....The developments that have taken place, especially since the inauguration of the Provincial constitution .....have established beyond any doubt that it has resulted wholly in a permanent communal majority and the domination by the Hindus over the Muslim minorities, whose life and liberty, property and honour are in danger, and even their religious rights and culture are being assailed and annihilated everyday under the Congress Government in various Provinces.

".....While Muslim India stands against exploitation of the people of India and has repeatedly declared in favour of a free India, it is equally opposed to domination by the Hindu majority over the Mussalmans and other minorities and vassalisation of Muslim India, and is irrevocably opposed to any federal objective which must necessarily result in a majority community rule under the guise of democracy and parliamentary system of government. Such a constitution is totally unsuitable to the genius of the people of the country, which is composed of various nationalities and does not constitute a national state."[19] It is to be noted here that, though the Muslim League began to put forward the plea of 'nationalities', and also to assert that India did 'not consititute a national state', it did not as yet apply the term nation clearly and distinctly to the Muslims of India. The Muslims, indeed, were designated simply as a minority.

CHAPTER III

CONSTITUTIONAL BREAKDOWN IN THE PROVINCES

On 3rd September, 1939, Lord Linlithgow, the Viceroy, broadcast a message in the course of which he said, "I am confident that India will make her contribution on the side of human freedom as against the rule of force, and will play a part worthy of her place among the great nations and the historic civilisations of the world".[1]

On 4th September, the Viceroy invited Gandhiji to Simla. Gandhiji gave the Viceroy his personal views regarding the war. He knew he could not represent the national mind. Nor could he speak on behalf of the Congress because he had no instructions from the Congress Working Committee. He told the Viceroy that his own sympathies were with England and France from the purely humanitarian point of view. He thought that whatever support was to be given to the British should be given unconditionally. This could be done on a purely non-violent basis.[2] Gandhiji explained his views later in an article under the heading, "Source of my sympathy", in the Harijan of 11th September, 1939. He said, "No one perhaps described English misdeeds more forcibly, subject to truth, than I have. No one has resisted England more effectively perhaps than I have. And my desire for, and power of, resistance remain unabated. But there are seasons of speech and action as there are seasons of silence and inaction..... In the dictionary of Satyagraha there is no enemy.....As a Satyagrahi, *i.e.*, votary of Ahimsa, I must wish well to England. ..... I have come to the conclusion that Herr Hitler is responsible for the war..... My sympathy for England and France is not a result of momentary emotion or, in cruder language, of hysteria. It is derived from the never-dying fountain

of non-violence which my breast has nursed for fifty years. I claim no infallibility for my judgment. All I claim is that my sympathy for England and France is reasoned..... I told His Excellency that my sympathy had no concrete value in the face of the concrete destruction that is facing those who are directly engaged in the war."

The Working Committee of the Congress met on 14th September, 1939, to consider the situation created by the declaration of war.[3] Mr. Jinnah was invited to participate in the deliberations, but he replied that he could not go to Wardha owing to previous commitments and that he would gladly discuss the situation with Dr. Rajendra Prasad at Delhi which place he was about to reach on the 13th in view of the meeting of the Muslim League Working Committee. No joint discussion was held, and a joint demand could not be made.

The Congress Working Committee issued a statement on 15th September, expressing its views on the situation created by the war.[4] It said that it had already expressed its displeasure at the British Government's flouting of Indian opinion in regard to the movement of troops and that, as a first step towards dissociating itself from this policy, the Committee had called upon the members of the Central Legislative Assembly to refrain from attending the next session.

It took exception to the fact that the British authorities had declared India a belligerent country, promulgated Ordinances, passed the Government of India Act (Amendment) Act and taken other far-reaching measures which affected the Indian people and circumscribed and limited the powers of Provincial Governments.

While condemning Nazi aggression in Poland, the Congress Working Committee reiterated the Congress declaration that the issue of war and peace should be decided by the Indian people. It did not fail to point out that, if the war against Germany and her allies was intended to defend imperialism, then India could have nothing to do with it ; if, however,

the issue related to democracy, then India was intensely interested in it.

The Committee took the view that, if Great Britain fought for the maintenance of democracy, then, it must necessarily end imperialism in its own possessions and establish full democracy in India, and that the Indian people must have the right of self-determination and frame their own constitution through a Constituent Assembly.

Further, with its vast resources, India must play an important part in any scheme of world organisation.

The Committee believed that India could only do so as a free nation, for it was only then that her energies would be released to work for this great end.

'In the struggle for that new world order', the Committee was 'eager and desirous to help in every way', but it could not associate itself or offer co-operation in a war which was conducted on imperialist lines.

The Committee decided, however, not to take any final decision at that stage, so as to allow for the full elucidation of the issues at stake, the real objectives aimed at, and the position of India at that time and in the future. The Working Committee, therfore, invited the British Government to declare in unequivocal terms what their war aims were in regard to democracy, and how those aims were to apply to India and to be given effect to immediately.[4]

It is clear, therefore, that the Congress Working Committee was in favour of giving a conditional support to the war—both morally and materially. The words in the resolution, namely, 'In the struggle for that new world order, the Committee is eager and desirous to help in every way,' are significant. It could not support an imperialist war. It could support the war only if it meant freedom for the peoples of the world. India could help in the war effort only as an independent nation. Before giving its final judgment on the question of assisting in war efforts, the Committee, therefore, invited the British

Government to clarify certain issues. The issues were : (1) What were the objectives of the British Government in the war? (2) How were those aims to apply to India ? (3) How were those aims to be given effect to in India then and there ?

The Muslim League's attitude to the war and to constitutional matters was declared in the resolution passed by the Working Committee of the All-India Muslim League on 18th September, 1939.[5] It condemned unprovoked aggression and expressed sympathy with Poland, England and France. In the same breath, it indicated the conditions which must be fulfilled if "real and solid Muslim co-operation and support to Great Britain" in that hour of her trial were to be secured. The real and solid support and co-operation of the Muslims could not be offered if the British Government and the Viceroy were unable to secure to them justice and fair play in the Congress-governed Provinces, where their "liberty, person, property and honour" were "in danger", and where their elementary rights were "most callously trampled upon". The Working Committee of the Muslim League urged upon the British Government and the Viceroy to direct the Provincial Governors to exercise their special powers for securing to the Muslims justice and fair play.[5]

Thus, the Muslim League also stood for such a support of the war as was not absolutely unconditional, though two of its leaders[6], namely, Sir Sikandar Hyat Khan, Chief Minister of the Punjab and Mr. Fazlul Huq, Chief Minister of Bengal, continued to function and pledged their support to the war.[7]

As regards constitutional matters, the League asserted, in its resolution of 18th September, 1939, a right to veto the constitutional advance of India and to speak as the sole representative of Muslim India. It declared that the Muslim League stood for the freedom of India but it asked the British Government for "an assurance that no declaration regarding the constitutional advance for India should be made without the consent and approval of the All-India Muslim League nor any

constitution be framed and finally adopted by His Majesty's Government and the British Parliament without such consent and approval". It claimed that it was the only organisation which could speak on behalf of the Muslims of India and wanted to be taken into confidence by the British Government.[5]

The Princes, however, assured the Viceroy of their help and offered their assistance in men, money and material to the British Government. Shortly afterwards (11th March, 1940), the Chamber of Princes passed a resolution, offering unconditional help to the British Government.[8]

The British Government's reply to the demands of the Congress was most disappointing. In a speech in the House of Lords on 26th September, 1939, Lord Zetland expressed "high appreciation of His Majesty's Government of the support which they have so far received from all classes in India". He said, "From the Princes of India, there have been received most generous offers of men, money and of personal service; and from individuals in all parts of the country, messages of sympathy and of support have been pouring in. His Majesty's Government have noticed with special gratification the statements which have recently been made by the Prime Ministers of the Punjab and Bengal, offering unconditional aid to them in the struggle. They have also observed, with great appreciation, the aid, which has been given to the Governors by the Ministers in all the Provinces of British India, in carrying through such measures as have been proved to be necessary as a result of the outbreak of war.....The Indian National Congress have indicated that they would find it difficult to co-operate whole-heartedly with Great Britain in the prosecution of the war except upon conditions affecting the political relations between the two countries".[9] In his reply to the debate on the following day, Lord Zetland said that it was natural but unfortunate that the Congress should have chosen this time to reassert its claims towards a fuller form of self-government. He added that the Government would be willing to listen to such demands when the time came. This was not the occasion to put

forward claims when they were engaged in a life and death struggle. He agreed that, in India, there was a number of ardent nationalists who had practical experience in administration and that "it would be a calamity if such men were to withdraw from the Governments in the Provinces".[10]

These speeches of Lord Zetland had the old, unsavoury flavour of imperialism. They drew a sharp distinction between the desires of the Princes, some loyalist individuals and some office-holders, on the one hand, and the Congress, on the other. Gandhiji's reply to these on 28th September is worth mentioning. He said that the Congress was an all-inclusive body. It had not a single interest opposed to that of the Muslims or the people of the States. As a representative body of all Indians, it had asked the British Government for an explanation of its intentions. If the British Government was fighting for freedom, it should declare that India's freedom was included in the war aims. India was willing to co-operate in the war efforts, but only as a free nation, and the Congress had a right to know that it could tell the people that, at the end of the war, India would be a fully independent state like England.[11]

About this time, the Viceroy had interviewed more than fifty people (including Gandhiji, Mr. Jinnah and the Chancellor of the Chamber of Princes), representing all parties, communities and interests, and had full and frank discussions with them.[12] These talks did nothing but encourage the differences of attitude, of problems, and of the solutions of problems.

The speeches of Lord Zetland stiffened the attitude of the Congress. The All-India Congress Committee passed a resolution on 10th October, 1939, demanding that India must be declared independent and that application must be given to this status to the largest possible extent without delay.[13]

Shortly after this, the Viceroy issued a statement on 17th October, 1939. In this, he elaborated Britain's policy in India. As regards war aims, he said, "We are fighting to resist aggres-

sion whether directed against ourselves or others. Our general aims have been stated by the Prime Minister within the last few days as follows : We are seeking no material advantage for ourselves. We are not aiming only at victory, but looking beyond it to the laying of a foundation of a better international system which will mean that war is not to be the inevitable lot of each succeeding generation. We, like all the peoples of Europe, long for peace ; but it must be a real and settled peace, not an uneasy truce, interrupted by constant alarms and threats. This statement, I think, clearly establishes the nature of the cause for which we are fighting and justifies, if justification is needed, the extension by India of her moral support and her goodwill to the prosecution of that cause."[14]

The Viceroy, however, admitted that "His Majesty's Government have not themselves yet defined with any ultimate precision their detailed objectives in the prosecution of the war." But, he tried to explain this lack of precision. He said, "It is obvious that such a definition can come only at a later stage in the campaign, and that, when it does come, it cannot be a statement of the aims of any single Ally. There may be many changes in the world position and in the situation that confronts us before the war comes to an end, and much must depend on the circumstances in which it does come to an end and on the intervening course of the campaign."[14]

As regards India's future constitutional status, the Viceroy repeated the old view that the natural issue of India's progress was the attainment of Dominion Status, and that the intentions and anxiety of His Majesty's Government were, as stated in the Instrument of Instructions to the Governor-General, to further the partnership between India and the United Kingdom within the Empire to the end that India might attain her place among the great Dominions. He pointed to the Government of India Act, 1935, which, he said, "was based on the greatest measure of common agreement which it was possible to obtain at the time when it was framed". He added, "His Majesty's Government recognise that, when the time comes to resume

consideration of the plan for the future federal government of India, and of the plan destined to give effect to the assurances given in Parliament by the Secretary of State (on 6th February, 1935, referring to the pledge given in the Preamble to the Act of 1919, i.e., attainment of Dominion Status by India), it will be necessary to reconsider in the light of the then circumstances to what extent the details of the plan embodied in the Act of 1935 remain appropriate. And I am authorised now by His Majesty's Government to say that, at the end of the war, they will be very willing to enter into consultation with representatives of the several communities, parties and interests in India, and with the Indian Princes, with a view to securing their aid and co-operation in the framing of such modifications as may seem desirable."[14]

For the purpose of associating public opinion in India with the prosecution of the war, the Viceroy said, "In the light of my conversations and of the views of the representatives of the great parties and of the Princes, I am of the opinion that the right solution would be the establishment of a consultative group, representative of all major political parties in British India and of the Indian Princes, over which the Governor-General would himself preside, which would be summoned at his invitation, and which would have as its object the association of public interest in India with the conduct of the war and with questions relating to war activities. This group, for practical reasons, would inevitably be limited in size. But, His Majesty's Government contemplate that it should be fully representative, and in particular that its personnel should be drawn by the Governor-General from panels prepared by the various major political parties, from which a selection of individuals to attend meetings of the group would be made by the Governor-General. I hope in the very near future to enter into consultation with political leaders and with the Princes on the question."[14]

Thus, not only were Britain's war aims not explained except in vague terms, India's political goal also remained as uncertain as before. The Government of India Act, 1935, might

be revised but nothing would be done before the end of the war. For the task of revision two things would be necessary :— (1) The situation was to be faced in terms of world affairs and the political situation of the country; and, (2) the largest measure of agreement should be secured from several communities, parties and interests in India and from the Indian Princes.[15]

In this way, the demand of the Muslim League, that no constitution would be acceptable to it unless made with its consent and approval, was sought to be met. The Princes and other interests also were brought into the picture. For the time being, the only concession to be given for placating the Indian people was a consultative group. On 18th October, 1939, speaking in the House of Lords, Lord Zetland said that the Consultative Committee was not to be a nominated group. The panels were going to be either nominated or elected by the political parties themselves and such a body would serve as a liaison between the Government and the people. The suggestion was that the panels should constitute a comparatively large body, from which the Viceroy, from time to time, would be able to draw members for the discussion of particular subjects. Lord Zetland considered the Act of 1935 as a prerequisite to Dominion Status, and repeated the old argument for postponing the constitutional advancement of India that the root cause of the difficulties in the matter of constitution building lay in the communal antagonism which still militated against the political unity of the country.[16] Later on, on 6th November, 1939, the Viceroy explained that, in order to associate Indian opinion with the conduct of war, the British Government was ever ready, if certain conditions were secured, to expand the Executive Council of the Governor-General. He pointed out, however, that, because of disagreement between the major communities, the British Government could not expand the Executive Council.[17] Gandhiji remarked, "The Congress has asked for bread and it has got stone."[18]

The Congress had now to decide on its course of action. On 22nd October, 1939, the Congress Working Committee passed

a resolution to the effect that the Viceroy's announcement of 17th October was wholly unsatisfactory, and it called upon the Congress Ministries to resign.[19] It may be recalled in this connection that the Working Committee in its resolution of 12th August, 1939, had anticipated such resignation, for, then it had given the hint of dissociating itself from the British Government and of taking, from time to time, such steps as were thought to be necessary.[20]

The Congress Parliamentary Sub-Committee, with the approval of the Working Committee, issued the following instructions for the guidance of Ministers and Congress Parties in the Congress Provinces :—

"The resolution of the Working Committee calls upon Congress Provincial Governments to tender their resignations. These resignations should be given after the Assembly's meetings which have been convened for the purpose of discussing such urgent business as may be pending but it is expected that resignations will be tendered by October 31, 1939.

"The Central Provinces and Orissa Assemblies have been convened to meet at the beginning of November and the Provincial Governments in those Provinces will remain in office till after this meeting.

"Speakers and Deputy Speakers and members of the Assemblies, Presidents and members of the Councils, are expected to retain their offices and seats. Ministers and Parliamentary Secretaries are the only persons who are expected to resign.

"With regard to the resolutions to be moved in the Assemblies on war aims, suitable amendments should be made in view of the new developments."[21]

Accordingly, the following resolution was moved by Chief Ministers in the Assemblies of the Congress Provinces :—

"This Assembly regrets that the British Government have made India a participant in the war between Great Britain and Germany without the consent of the people of India

and, further, in complete disregard of Indian opinion, passed laws and adopted measures curtailing the powers and activities of the Provincial Governments.

"This Assembly recommends to the Government to convey to the Government of India and through them to the British Government that, in consonance with the avowed aims of the present war, it is essential, in order to secure the co-operation of the Indian people, that the principle of democracy with effective safeguards for the Muslims and other minorities be applied to India and her policy be guided by her people ; and that India should be regarded as an independent nation entitled to frame her own constitution; and further that suitable action be taken in so far as it is practicable in the immediate present to give effect to that principle in regard to the present governance of India.

"This Assembly regrets that the situation in India has not been rightly understood by His Majesty's Government when authorising the statement that has been made on their behalf in regard to India and, in view of the failure of the British Government to meet India's demand, this Assembly is of opinion that the Government cannot associate itself with British policy."[22]

This resolution was passed by large majorities in seven Congress Provinces—i.e., in all but Assam where there was, in fact, a Congress coalition Ministry. In the U. P. and C. P. Assemblies, it was passed with slight modifications.[23]

In accordance with the instructions of the Congress Parliamentary Sub-Committee, Provincial Ministries resigned in all Congress Provinces one after another, all within a fortnight—the Madras Ministry being the first to resign on 28th October.[24]

When the Congress declared the Viceroy's declaration of 17th October as wholly unsatisfactory, because not only were Britain's war aims not defined but also the differences among

various sections of the people 'utilised as a screen to hide the true intentions of Great Britain',[25] the Muslim League, on the same day (22nd October, 1939), gave its opinion on the Viceroy's declaration. It desired that certain doubts should be removed and complete clarification secured, subject to which it empowered its President, if fully satisfied, to give an assurance of co-operation and support, on behalf of the Muslims of India, to the British Government for the purpose of the prosecution of the war. It criticised, however, the proposal of revising the Federal scheme of the Act of 1935 ; it demanded that the whole constitution should be reconsidered *de novo*. It was happy that the British Government had recognised the differences among the various parties and interests and would consult them at the time of the rebuilding of the constitution.[26]

On the resignation of the Congress Ministries, the administration of the Congress Provinces, except Assam, was taken over by the Governors under Section 93 of the Government of India Act, 1935. Proclamations under that Section were issued at different dates between 30th October and 10th November, 1939, by the Governors of seven Provinces, namely, Madras, Bombay, the U.P., the C.P., Bihar, Orissa and the N.W.F.P.[27] By these Proclamations, the Governors assumed to themselves all the powers hitherto exercised by the Provincial Legislatures and Councils of Ministers. The Governors appointed Advisers, generally two or three in number, from among senior officials in their Provinces.[28] There was, therefore, no responsible government nor any vestige of Provincial autonomy now in a large part even of British India.

In Assam, on the resignation of Mr. Bardoloi (Congress) an alternative Government was formed with Sir Muhammad Saadulla as the Chief Minister.[29] He remained in office till December, 1941, when he resigned and the Governor took over the administration of the Province by a Proclamation issued under Section 93.[30] Governor's rule remained in the Province till August, 1942, when the Proclamation under Section 93 was revoked and a non-Congress Ministry was formed again

under Sir Muhammad Saadulla.[31] In Orissa, a non-Congress Ministry was formed on 23rd November, 1941, when the Proclamation under Section 93 was revoked.[32]

A Proclamation conferring powers of Provincial government on the Governor was to cease to operate at the expiration of six months. Thereafter, it could be continued for one year at a time (the total duration not exceeding three years) by Parliamentary approval. So, the Proclamations were continued from year to year by Parliamentary resolutions.

A Proclamation could not remain in force for more than three years. So, in October, 1942, the India and Burma (Temporary and Miscellaneous Provisions) Act was passed providing for the continuance, by annual Parliamentary resolutions, of any unrevoked Proclamation till the expiration of twelve months after the end of the war.[33]

On the resignation of the Congress Ministries, the Viceroy invited Gandhiji, Dr. Rajendra Prasad and Mr. Jinnah to come and see him on 1st November, 1939.[34] They discussed the whole situation. The Viceroy explained that, though the British Government had desired to expand temporarily the Executive Council of the Governor-General, it had been unable to go further than the consultative group because of the lack of prior agreement between the major communities such as would contribute to harmonious working at the Centre. He added that the resolutions passed on 22nd October by the Congress Working Committee and the Muslim League had shown only too clearly the gulf that existed between the attitudes of those two parties. He begged his visitors, "in these circumstances, to meet and to have discussions among themselves on the Provincial position, with a view thereafter to putting forward in agreement proposals which could be considered for some expansion of the Governor-General's Council at the Centre." He told them that he "saw no necessity for every detailed difference between them in the Provinces to be resolved. What was needed was a sufficient resolution of those differences to make the devising of a scheme for harmonious working at the Centre practicable."[34]

The idea was to form coalition Governments in the Provinces so that the Central Executive Council could be expanded after that pattern. The Viceroy's suggestion for a coalition in the Provinces was inspired by the Muslim League Council's resolution of 28th August, 1939, in which it had said, among other things, that the safeguards were completely useless in the face of a permanently hostile majority and that the Viceroy and the Governors in the Congress Provinces had failed in exercising their special powers to protect and secure justice to the minorities.[35] It may be remembered in this connection that, when in 1937 the Congress decided to take office, the Muslim Legue wanted to join in coalition with the Congress. When that was refused, it began a vigorous propaganda against the Congress Governments.[36] Now, the Governor-General made the proposal.

In his letter to the Governor-General, dated 4th November, 1939, Mr. Jinnah pointed out that he had met the Congress leaders but had come to the conclusion that they could not discuss any question (regarding the Provincial field or the Centre) until the British Government had complied with their demand as embodied in the resolution of the A. I. C. C.[37] On 6th November, the Viceroy issued a statement in which he said that the talks had failed and that communal discord was the main stumbling block in the way of India's constitutional progress. He, however, intended to try again in order to see, in consultation with the major parties and the Princes, if there might be any possibility of unity. This statement brought communal disunity to the forefront and added to the strength of the Muslim League. Needless to say, none but the Muslim League was pleased with the statement.

Mr. Jinnah was not slow in pushing his demands. On 6th December, 1939, he asked the Muslims all over India to observe Friday, the 22nd of December, as the ' Day of Deliverance', as a mark of relief that the Congress regime had at last ceased to function.[38] The programme for the 'Day of Deliverance' was that the Provincial, District and Primary

Muslim Leaguers all over India would hold public meetings and pass the following resolution :—

"This public meeting of the Mussalmans of (name of the place) records its opinion that the Congress Ministry has conclusively demonstrated and proved the falsehood of the Congress claim that it represents all interests justly and fairly, by its decidedly anti-Muslim policy. It is the considered opinion of this meeting that the Congress Ministry has failed to safeguard the rights and interests of the Mussalmans and other minorities and interests ; that the Congress Ministry both in the discharge of their duties of the administration and in the Legislature have done their best to flout the Muslim opinion and to destroy Muslim culture, and have interfered with their religious and social life and trampled upon their economic and political rights; that in matters of differences and disputes the Congress Ministry invariably have sided with, supported and advanced the cause of the Hindus in total disregard and to the prejudice of the Muslim interests.

"The Congress Government constantly interfered with the legitimate and routine duties of District Officers even in petty matters to the serious detriment of the Mussalmans, and thereby created an atmosphere which spread the belief amongst the Hindu public that there was established a Hindu Raj and emboldened the Hindus, mostly Congressmen, to illtreat Muslims at various places and interfere with their elementary right of freedom. This meeting, therefore, expresses its deep sense of relief at the termination of the Congress regime in various Provinces and rejoices in observing this day as the Day of Deliverance from tyranny, oppression and injustice during the last two and a half years, and prays to God to grant such strength, discipline and organisation to Muslim India as to successfully prevent the advent of such a Ministry again and to establish a truly popular Ministry which would do even justice to all communities and interests.

"This meeting urges upon His Excellency the Governor of (name of the Province) and his Council of Advisers to enquire into the legitimate grievances of the Mussalmans and the wrongs

done to them by the outgoing Congress Ministry, and redress the same at the earliest moment in accordance with the announcements that have been made by the Governors in taking over the government of various Provinces under Section 93 of the Government of India Act of 1935 and thus assure the people that the new regime stands for even justice to all communities and interests."[39]

The 'Day of Deliverance' was observed on 22nd December, 1939, throughout the country.[40]

In this way, both Mr. Jinnah and the British Government had shifted the emphasis from the purely political to the purely communal level. When the war was declared and India made a party to it, the Viceroy appealed to the people for their co-operation. The Congress "had asked for a declaration of war aims, their application to India and an earnest of the latter in the actual government at the Centre."[41] The British reply to these was that war aims were not specified even for Britain, that after the war the whole Federal scheme of the Act of 1935 would be revised in consultation with representatives of communities, parties, interests and Indian Princes, and that responsibility at the Centre was impossible in view of the fact that there was no agreement among the major communities.

Thus, the communal question was brought to the foreground and made an excuse for postponing constitutional advance. The Congress, on the other hand, maintained that, once India was declared independent, the interim arrangement would be easy, and that the burden of finding a formula for the protection of minorities should be thrown on the parties themselves.

The Muslim League's observance of the 'Day of Deliverance' from Congress rule showed too clearly that it had taken a path altogether different from what the Congress had taken. While the Congress resigned office purely on political grounds, the League rejoiced over it on communal grounds.

Moreover, by its resolution of 18th September, 1939, the League had totally rejected the objective of an all-India federation

of the democratic type and claimed a veto on India's constitutional advance. It had asked for an assurance that no declaration regarding constitutional advance should be made without the consent and approval of the League nor any constitution be framed and adopted by the British Government without such consent and approval. This assurance was given in the Viceroy's statement on 17th October, 1939, and reiterated in the Viceroy's statement on 6th November, 1939.

The responsibility for the constitutional breakdown is sometimes laid on the Congress. "It was the unavoidable result of the Congress leaders' decision to bring the operation of the existing system to an end"[42]—writes Coupland. If it be said that it is the duty of the majority party in the legislature to form a Government and that, owing to the resignation of the Ministries, the Congress party failed in its duty, in fairness to the Congress it may be replied that it acted in accordance with the mandates of the people. In its election manifesto the Congress had definitely laid down that Congressmen should enter the legislatures "not to co-operate in any way with the Act (of 1935) but to combat it and to end it."[43] Having been elected, they got a mandate from the people, which it was their duty to fulfil. In their resignation, they fulfilled their pledge.

CHAPTER IV

THE LAHORE RESOLUTION—THE MUSLIM LEAGUE'S DEMAND FOR PARTITION.

24th March, 1940, marked a turning point in the history of India. On that day, the Muslim League, at its Lahore session, passed a resolution demanding the separation of Muslim-majority areas (of India) from India and their formation into independent states. The resolution ran as follows:—

".....This session of the All-India Muslim League emphatically reiterates that the scheme of Federation embodied in the Government of India Act, 1935, is totally unsuited to, and unworkable in, the peculiar conditions of this country, and is altogether unacceptable to Muslim India.

".....Muslim India will not be satisfied unless the whole constitutional plan is reconsidered *de novo*, and.....no revised plan would be acceptable to the Muslims unless it is framed with their approval and consent.

".....No constitutional plan would be workable in this country or acceptable to the Muslims unless it is designated on the following basic principles, viz, that geographically contiguous units are demarcated into regions which should be so constituted with such territorial readjustments as may be necessary that the areas, in which the Muslims are numerically in a majority, as in the North-Western and Eastern zones of India, should be grouped to constitute independent states in which the constituent units shall be autonomous and sovereign; that adequate, effective and mandatory safeguards should be specifically provided in the constitution for minorities in the units and in the regions for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them, and, in other parts of

India where the Muslims are in a minority, adequate, effective and mandatory safeguards shall be specifically provided in the constitution for them and other minorities for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them.

"This session further authorises the Working Committee to frame a scheme of constitution in accordance with these basic principles, providing for the assumption finally by the respective regions of all powers such as defence, external affairs, communications, customs and such other matters as may be necessary."[1]

This resolution, while rejecting the Federal part of the Government of India Act, 1935, put forward a basic plan for the constitutional reform of the country, nothing but which would, according to the League, be acceptable to Muslim India. The plan was one for the partition of the country on the basis of the Muslim-majority areas in the north-western and eastern zones of India. In other words, the Punjab, the N.W.F.P., Baluchistan and Sind in the north-west and Bengal and Assam in the east should be incorporated as "independent states" outside India.[2] Certain ambiguities in the resolution were evident. It contemplated the grouping of zones into independent states in which the constituent units would be autonomous and sovereign. The term constituent units implied a federation. If it was so, then the 'sovereignty' of the units was meaningless. But these ambiguities need not concern us. It is clear that the demand was for the division of the country "on the basis of the boundaries of the six Provinces, namely, the N.W.F.P., the Punjab, Sind, Bengal, Assam and Baluchistan subject to territorial adjustments that might be necessary."[3] The resolution definitely envisaged two separate Muslim states. But, later on, Mr Jinnah modified the scheme and argued on the basis of one independent and sovereign Muslim state composed of two zones—one in the north-west and the other in the north-east.

The resolution was based on the idea that the Muslims were a nation as distinct from the Hindus who formed the bulk of the population of India, and, as such, they must have a separate state of their own so that they might have an opportunity of developing their spiritual, cultural, economic and political life in accordance with their genius. According to Mr. Jinnah, Islam and Hinduism "are not religions in the strict sense of the word, but are, in fact, different and distinct social orders....The Hindus and the Muslims belong to different religious philosophies, social customs and literatures. They neither intermarry nor interdine together, and, indeed, they belong to two different civilisations which are based mainly on conflicting ideas and conceptions. Their aspects on life and of life are different. It is quite clear that Hindus and Mussalmans derive their inspiration from different sources of history. They have different epics, different heroes, and different episodes. Very often, the hero of one is a foe of the other and, likewise, their victories and defeats overlap. To yoke together two such nations under a single state, one as a numerical minority and the other as a majority, must lead to growing discontent and final destruction of any fabric that may be so built up for the government of such a state .. Mussalmans are not a minority as it is commonly known and understood.....Mussalmans are a nation,.....and they must have their homeland, their territory, their state."[4]

This claim to nationhood, obviously, emphasised the characteristics which marked off the Muslims from the Hindus and, at the same time, united the Muslims. The differences were based mainly on religion. And, essentially, the Muslims had one unifying bond among themselves and this was religion. Their religion enjoined upon themselves an attitude of life different from that of the Hindus. There were, moreover, some other causes of divergence. The Muslims had wrested power from the Hindus and then were themselves stripped of power by the British. The abolition of Persian as the Court language was a severe blow to the pride of the Muslims.[5]

During the early years of British rule, they had not taken care to take to English education which the British had imported into India[6] and, therefore, remained in intellectual isolation. On account of their lack of English education, they were excluded from Government employments.[7] The Hindus, on the other hand, had readily adopted English education and were taken in Government services.[8] To the political humiliation of the Muslims was added economic depression.[9] All these contributed to the growth of a separatist feeling in their minds. The Hindu social system prevented a fusion of the Muslims and the Hindus. Islam also enjoined a differential treatment to non -Muslims.[10] Without social unity, political unity became an impossibility. Having no common heritage of memories, the Muslims had no desire to live together with the Hindus.[11]

The claim to nationhood, it must be admitted, was not based strictly on logic. The differences between the Hindus and the Muslims were not much more glaring than the differences among the Muslims themselves. A Punjabi Muslim did not speak the same language as a Bengali Muslim. Instances could be multiplied. On the other hand, as Dr. Rajendra Prasad says, "certain attributes which are generally supposed to attach to a nation do not apply to Muslims alone as such and are shared in common by Muslims and non-Muslims of particular areas of India. Thus, in the matter of language the Punjabi Hindu, the Punjabi Muslim and the Punjabi Sikh speak the same language irrespective of their religions. So do all the Pathans, whether Muslim or Hindu, of the N.W.F.P. speak Pushto alike. And so do all Bengalis, whether Hindu or Muslim, speak the same language, Bengali. In all these areas they occupy the same land. In all these places they have lived under the same Government with the rest of British India during the British period for over one hundred years at least —even if we leave out the long period of Muslim rule."[12] Their manners and customs were almost the same.[13] Racially, there was no difference between the Hindus and the Muslims.[14] The majority of the Indian Muslims had been converted from

Hinduism.[15] Religion, therefore, was practically the sole criterion for determining the Muslim nationhood. No doubt, there were some divergences between the courses of development of the Hindus and the Muslims under British rule. But, these were only historical accidents and were not certainly germane to nationhood. The generally accepted criteria of nationality, other than religion, hardly distinguished the Muslims from the non-Muslims of India. Now, if religion was the basis of their nationalism, why did not all the Muslims of the world constitute a single nation and live in a single state ? Moreover, here in British India they were about 25% of the whole population.[16] Being practically one-fourth of the total population, they claimed a separate state; but they were not prepared to concede the same rights to about 45% of the non-Muslims of Bengal or to about 48% of the non-Muslims of Bengal and Assam taken together.[17]

Indeed, the Muslims could not logically demand a separate state solely because they belonged to the same religion. There were other far stronger ties of union with the Hindus like common habitation, common manners and customs, common language, common government, etc.

However illogical the claim may be, the fact is that the Muslim League sought to establish its position by calling the Muslims of India a nation . The Lahore resolution is, therefore, important, for it marked a change in the attitude of the Muslim League. Hitherto, it had claimed special protection of the state for the Muslims as a community, but now it claimed a separate state organisation for the Muslims as a nation. Henceforth, the question of Pakistan—a separate state organisation for the Muslims—became the most burning problem in Indian politics.

This demand for separation is ascribed in certain quarters to the annoyance caused to the Muslim League by the Congress in its refusal (*a*) to recognise the Muslim League as the only representative body of the Muslims in India and (*b*) to form

coalition Ministries in the Congress Provinces when the Provincial part of the Government of India Act, 1935, was introduced in 1937.[18]

The Congress was ready to accept the Muslim League as one of the many Muslim political organisations such as the Arhars, the Nationalist Muslims and the Jamiat-ul-ulema, but it was not ready to accept the Muslim League as the only representative body of the Muslims. The Muslim League criticised the attitude of the Congress as "an attempt to create divisions among them with a view to causing confusion in their ranks and weaken their front."[19]

Secondly, when after the elections of 1936-37, the Congress decided to accept office, the Muslim League wanted Congress -League coalition Governments, but the Congress refused to join in a coalition with the Muslim League. [20] It was of the view that, in those Provinces where the Congress Party was in a majority, coalition Ministries would be absolutely illogical.[21] That would be inconsistent with the principle of homogeneity and collective responsibility. The principles and the policy of the League were fundamentally different from those of the Congress which had emphatically opposed the whole Act of 1935 and had accepted office in order to show the futility of the new constitution in which there were so many provisions for special powers of the Governors. When it took office, its duty was to implement its election pledges. If it was unable to fulfil those pledges, it would resign office. Therefore, it could form coalitions only with those parties which would adopt at least the essentials of the congress programme. "Resignation from office was a great weapon with the Congress, which was as constitutional as it was effective in bringing the Governors round in case of difference."[22] In such a case, it was impossible to join in a coalition with the Muslim League which had accepted the Provincial part of the Act of 1935 practically with a view to working the constitution.[23]

The Muslim League claimed that the refusal of the Congress to form coalition Ministries with it was against the spirit

of the Government of India Act, 1935. Under the Instrument of Instructions issued to the Governors, they were to include, in their Councils of Ministers, members of important minority communities. The Muslim League had demanded that the Muslim members of the Ministries should be chosen by the Muslim League. This the Congress had refused to accept. The Congress claimed to be a representative body of all Indians. Though it was predominantly Hindu in composition, its ideals were not communal. Again, it had in its ranks members of all communities including Muslims. Besides, some of the Muslim members of the Legislatures in the Congress-majority Provinces were Congressmen. Moreover, the Congress could not ignore the existence of Muslim parties other than the League—e.g., the Arhars, Jamiat-ul-ulema, etc. So, according to the Congress, the claim of the League to an exclusive right to choose Muslim members of the Ministries in the Congress Provinces was wholly illogical.

Whatever might be the logic in the refusal of the Congress to form coalition Governments, the fact is that the Muslim League interpreted it as the attempt of the Congress to establish a Hindu Raj[24] (as the Congress was predominantly Hindu in composition) and to suppress all other minorities. Being frustrated in its attempts to be an equal partner with the Congress, the League carried on an intense propaganda against it. The Lahore resolution was perhaps a direct result of that frustration.[25]

CHAPTER V

THE CONSTITUTIONAL IMPASSE

(18th October, 1939—11th March, 1942)

With the resolution of the Congress Working Committee directing the Provincial Congress Ministries to resign, ensued a constitutional deadlock. On the resignation of these Ministries, the administration of the Congress Provinces was taken over by the Governors concerned under Section 93 of the Government of India Act, 1935. Henceforward, a pretty game continued : the Congress was demanding independence ; the British Government was repeating the plea of its obligations to Princes, minorities, commercial interests, services, etc. The problem of imperial defence also was put forward. The Muslim League's activities encouraged the British Government.

It has already been noted that the Viceroy's statement of 6th November, 1939, was disappointing to a degree. On 19th November, 1939, Gandhiji wrote that the only way out of the impasse was a Constituent Assembly with reservation of seats for every real minority according to its numerical strength and separate electorates for the Muslims.[1] On the same day, the Congress Working Committee met at Allahabad and passed a similar resolution for dealing with the issue of minorities and other interests.[2] The purport of the resolution of the Working Committee was embodied in a circular issued by the General Secretary to all Provincial Congress Committees.

Already, in the autumn of 1939, Sir Stafford Cripps had visited India and taken a memorandum from Gandhiji.[3] On 26th October, 1939, Sir Stafford recommended a scheme to the House of Commons for the solution of the Indian problem.[4] He said that, true to the ideals of democracy for which the British Government was fighting, the Indian people could be assured

that the British Government's objective was self-government for the Indian people. As, in the middle of the war, it was not possible for the British Government to devise a new constitution in accordance with the wishes of the Indian people, he recommended, as an immediate step, the following adjustment :

First, abandonment on the part of the British Government of the idea of an all-India federation and dealing with the problem as one for British India alone.

Secondly, election of a new Central Legislative Assembly on the basis of registers for the Provinces. Major parties in that Legislature were to form a Government which the Viceroy should appoint as his Executive Council. Further, though technically the new Council would not be a Cabinet, the British Government could give an undertaking that the Viceroy would deal with that Executive Council as a Cabinet.[4]

The onus of forming a Government was thus thrown upon the major parties which, moreover, were expected to agree on a possible course of action so that a Cabinet-like Government could function.

Speaking in the House of Lords on 14th December, 1939, Lord Zetland repeated the old arguments for deferring a settlement of the Indian question. To quote Lord Zetland, "There is the defence of India, there are our obligations to the Princes, and there is the position in India which our people have built up during generations past." There were the minorities also. All these stood in the way of a constitutional settlement.[5] Pandit Jawaharlal Nehru rejoined that a Constituent Assembly would solve the problems—the difficulties among groups being settled by independent arbitration.[6] Henceforward, the Congress spoke of special interests of minorities as social and cultural but not political. The year 1939 ended in bitter disappointment at the attitude of the British Government. The Congress Working Committee asked the Congress members of the Central Assembly to continue boycott indefinitely except for retaining seats.[7] Quite early in the year 1940, speaking at the Orient Club, Bombay, on 10th

January, Lord Linlithgow reiterated that the British Government's objective for India was Dominion Status of the Statute of Westminster variety. "He drew attention to the fact that, while the Federal scheme of the Act (of 1935) afforded the swiftest stepping stone towards Dominion status, His Majesty's Government were only too willing, when the time came, to examine the whole field in consultation with all parties and interests in India ; and he further explained that His Majesty's Government were prepared in the meantime to expand the Executive Council of the Governor-General on lines indicated in November last by the inclusion of a small number of political leaders."[8] Matters did not improve even after Gandhiji saw the Viceroy on 5th February, 1940, at the invitation of the latter. The interview was futile as the Viceroy said that "the Federal scheme of the Act, while at present in suspense, afforded the swiftest stepping stone towards Dominion Status, and that its adoption with the consent of all concerned would facilitate a solution of many problems that had to be faced in that connection." The Viceroy pointed out that the offer, put forward by him in November of the previous year, of the expansion of the Governor-General's Executive Council on the basis, then indicated, remained open. He added, "Subject to the consent of the parties affected, His Majesty's Government would be prepared also to reopen the Federal Scheme so as to expedite the achievement of Dominion Status and facilitate a settlement after the war of the issues to which it gave rise."[9] Gandhiji replied that the proposal did not meet the demand of the Congress Party and suggested postponement of further discussion with the object of finding a solution of the difficulties which had arisen.[10] Shortly after this, the Congress adopted a resolution at its Ramgarh session on 20th March, 1940. The resolution declared that, as the war was being carried on for imperialist ends, the Congress could not help in the prosecution of the war with men, money or material. It declared that nothing short of complete independence could be acceptable to the people of India. Further, the Indian constitution must be framed by the Indian people through a Constituent Assembly elected on

the basis of adult suffrage. The Constituent Assembly, again, was the proper authority to solve the minority problem. The resolution also emphasised that India's constitution must be based on independence, democracy and national unity. It disapproved and condemned any attempt at division of India or splitting up its nationhood. It rejected the plea of the interests of the Princes, or of foreign vested interests, to come in the way of India's freedom. Sovereignty in India must belong to the people —it asserted. As regards its immediate programme of action, it said that, as a part of its policy of dissociating India from the war, it would launch a campaign of Civil Disobedience as soon as the Congress organisation was fit enough for the purpose, or in case circumstances demanded it. The responsibility for declaring Civil Disobedience would be Gandhiji's.[11] About this time, the Muslim League, at its Lahore session, passed a resolution demanding partition of the country.[12] Thus ended the first phase of the constitutional deadlock with the prospect of Civil Disobedience looming large in the horizon and the Muslim League's demand for partition.

In May, 1940, the British Cabinet was reconstituted with Mr. Churchill as the Prime Minister in place of Mr. Chamberlain, and Mr. Amery became the Secretary of State for India in place of Lord Zetland. His first speech as Secretary of State did not show any departure from the policy of the previous Government. The attainment by India of "free and equal partnership" was defined as the goal of the British Government's policy towards India ; and that, again, was to be based on an agreed settlement of the legitimate claims of all communities and interests.[13] At this time, events were moving at a rapid pace in Europe. With the fall of France in June, 1940, it was apprehended that Britain also would fall soon.[14] This apprehension was strengthened by the India-Burma (Emergency Provisions) Act, which was passed at this time, transferring to the Governor-General in India, in the event of a complete interruption of communications with the United Kingdom, some of the powers exercised by the Secretary of State for India.[15]

The Congress Working Committee met at Wardha on 21st June, 1940, to consider the situation.[16] It felt that, as British power was about to collapse and the Congress was likely to take over, it must prepare for non-violent defence of the country. Ultimately, however, the Working Committee decided that armed forces and violent methods would be necessary for defence and for maintaining law and order in the country. The statement, issued by the Working Committee, said : "The problem of the achievement of national freedom has now to be considered along with one of its maintenance and the defence of the country against possible external aggression and internal disorder..... (Mahatma Gandhi) feels that at this critical phase in the history of man, the Congress should enforce this ideal (non-violence) by itself declaring that it does not want that India should maintain armed forces to defend her freedom against external aggression or internal disorder..... (The Committee) have come to the conclusion that they are unable to go to the full length with Gandhiji. But they recognise that he should be free to pursue his great ideal in his own way and, therefore, absolve him from responsibility for the programme and activity which the Congress has to pursue under conditions at present prevailing in India and the world in regard to external aggression and internal disorder."[17].....

Thus, the Congress was thinking in terms of taking over the administration. For the purposes of administration at that time, it approved, against Gandhiji's convictions, the use of violence and physical force. Nevertheless, it refrained from co-operating with the war activities of the Government of India. It was determined to continue the struggle for independence and to adopt in that struggle nothing but non-cooperative, non-violent methods. In its statement, the Working Committee added:— "The methods and basic policy of non-violence in the national struggle for freedom continue in full force and are not affected in the least by the inability to extend it to the region of national defence. War-Committees.....cannot be supported, and Congressmen cannot participate in them or contribute to war

funds. Nor can Congressmen associate themselves with Government-controlled civic guards."

The Working Committee met again at Delhi from 3rd to 7th July to consider the issue. It adopted a resolution pairing the demand for a declaration of India's independence with the demand for the establishment of a provisional National Government as a pre-requisite to Congress' throwing full weight in the efforts for the effective organisation of the defence of the country. The resolution reads as follows:—

"The Working Committee are more than ever convinced that the acknowledgement by Great Britain of the complete independence of India is the only solution of the problems facing both India and Britain and are, therefore, of opinion that such an unequivocal declaration should be immediately made and that, as an immediate step in giving effect to it, a provisional National Government should be constituted at the Centre, which, though formed as a transitory measure, should be such as to command the confidence of all the elected elements in the Central Legislature and secure the closest co-operation of all the responsible Governments in the Provinces."[18]

This resolution was then ratified by the A. I. C. C. at Poona (July, 1940).[19]

The Delhi resolution of the Congress definitely meant by 'National Government' a Government composed not of the nominees of the Governor-General but of persons broadly representing the different elements of the Indian nation. The Congress had simply wanted the members of the Executive Council of the Governor-General to be representatives of the parties and groups elected to the Central Legislature.The resolution was not acceptable to the League, for, to Mr. Jinnah, to participate in the working of the constitution at the Centre would be to give up his two-nation theory. The Central Government had been controlling the Provincial Governments under the Government of India Act (Amendment) Act, 1939, and the Central Legislature had been elected on a unitary basis under the Government of

India Act. To participate in its working would mean leading the Congress to its cherished position. This, Mr. Jinnah felt, would go against the interests of the Muslims.[20]

The reply of the British Government to the new move of the Congress was the "August Offer", embodied in a statement, made by the Viceroy on 8th August, 1940.[21]

The Viceroy said that, ever since October, 1939, it had been the desire of the British Government to expand the Executive Council of the Governor-General but this had not been possible on account of the differences between the major political parties. Though the differences preventing the achievement of Indian national unity still existed, the British Government proposed to expand the Governor-General's Executive Council immediately and to set up a body which would closely associate Indian public opinion with the conduct of the war by the Central Government. The Governor-General had been authorised accordingly by the British Government to invite a certain number of representative Indians to join his Executive Council. He had been further authorised to establish a War Advisory Council which would meet at regular intervals and which would contain representatives of the Indian States and of other interests in the national life of India as a whole.

As to the position of minorities in relation to any future constitutional scheme, the Viceroy said that full weight would be given to the views of the minorities in any revision of the constitutional plan of 1935 and that the British Government would not contemplate transfer of their responsibilities for the peace and welfare of India to any system of government whose authority was directly denied by large and powerful elements in India's national life. Nor could they be parties to the coercion of such elements into submission to such a government.

As to India's political goal, he referred to the British Government's promise of Dominion Status and added that "free and equal partnership in the British Commonwealth" remained the objective of the British policy in India. The British Government sympathised with the desire that a new constitution

(within the British Commonwealth of Nations) should be built primarily by the Indians themselves. But it would be subject to the due fulfilment of the obligations of the British Government. After the conclusion of the war, there was to be set up a body representative of the principal elements in India's national life in order to devise the framework of the new constitution. Meanwhile, the British Government would welcome and promote, in any way possible, every sincere and practical step that might be taken by representative Indians themselves to reach a basis of friendly agreement, first, upon the form which the post-war representative body should take and the methods by which it should arrive at its conclusions and, secondiy, upon the principles and outlines of the constitution itself.

In explaining the August offer in the House of Commons on 14th August, 1940, Mr. Amery said that the constitutional deadlock in India was not so much between the British Government and a consentient Indian opinion as between the main elements in India's own national life—the Indian National Congress, the Muslim League and the Indian Princes. It could, therefore, be resolved by multilateral agreement to which the British Government could be only one of the parties. The Viceroy's offer was one of the expansion of his Executive Council and the establishment of a War Advisory Council.The enlarged Executive Council would continue to be responsible to the Governor-General and could not be responsible, in the strictly constitutional sense, to the Legislature. In inviting a certain number of 'representative' Indians to join his Council, the Viceroy would naturally take appropriate steps to ensure that they did, in fact, reflect the opinion of the parties from which they were chosen ; but they could not be made dependent on the support of the elected members of the Legislature, without changing the whole basis of the Indian Constitution in the middle of the war. If those members were made responsible to the Legislature, it would mean a change which the minorities might not accept. Further, the Viceroy's offer was a step towards Dominion Status. He added that the British Government

sympathised with the desire that the new constitutional scheme should be primarily the responsibility of the Indian people and that it wished to see it given the fullest practical expression. He emphasised, however, that such practical expression was subject to the due fulfilment of the obligations which Great Britain's long connection with India had imposed on her. The British Government could not divest itself of those obligations. That was the reason why India could not immediately be given the status of a Dominion.

As regards the number of members of the expanded Executive Council, it would depend on the nature of the response to the Viceroy's offer. The members would hold definite portfolios. They would not, in the strictly constitutional sense, be responsible to the Legislature. They would not be nominees of the parties but they should be representatives of the parties from which they would be selected after discussion and consideration of the names informally submitted.

The War Advisory Council would be a much larger body of some twenty or more members. Its purpose would be to bring together experience and special knowledge from all over India to help in the war efforts. It would include, besides Indian members, representatives of the European industrial and commercial community . The future constitution of India would be made by Indians themselves. But the constitution-making body would be constituted on the basis of an agreement between the representatives of the different elements in the Indian population. It would not be a body enjoying the confidence of one particular element, however influential but regarded as unacceptable to the minority elements.[22]

As the major political parties did not accept the Offer, the Governor-General announced the postponement of the expansion of the Executive Council and the establishment of the War Advisory Council.[23]

The August Offer fell far short of the Congress demand. Dr. Sitaramayya rightly holds the view that there was much that was avoidable repetition.[24] In his Orient Club speech, the

Viceroy had spoken of Dominion Status of the Statute of Westminster variety, and now he was doing no more than using the expression, "free and equal partnership". If free partnership implied the right of secession, there was no reason why a declaration could not immediately be made to the effect that India would be independent. When the Congress asked for National Government, there was offered an expanded Executive Council. Mr. Amery had construed the demand for National Government to be the demand for responsible government which could not be effected without overhauling the whole constitution during the war. In fact, the Congress demand was that the National Government would be so composed as to command the confidence of all the elected elements of the Legislature. In other words, it wanted power to be transferred to the elected representatives of the people. It wanted the substance of representative government. Along with this, it wanted to establish some conventions of responsible government within the framework of the then existing constitution. A responsible government, in the true sense of the term, presupposes an elected legislature, the cabinet being formed of the leaders of the majority party of the legislature. This would necessitate fresh elections which could not be effected without overhauling the constitution. The Congress did not want a responsible government in the strict sense of the term. The scheme of the expanded Executive Council was not even dyarchy. In one respect, the August Offer was rather obtrusive. The Viceroy's statement clearly encouraged the Muslim League and the Princes to put all sorts of obstacles before any constitutional advancement that might be demanded by the Congress. The whole scheme clearly indicated Britain's unwillingness to transfer power. If the British proposals had been made before the fall of France, the Congress might have given thought to them; but, after the unequivocal demand for a declaration of independence, the Viceroy's offer of free and equal partnership was unacceptable to it.[25] So bitter was Congress disappointment that Moulana Azad, who was the President of the Congress, did not see the Viceroy by whom he had been invited for discuss-

ions regarding the proposals.[26] The resolution passed by the Working Committee at Wardha (18th to 22nd August, 1940)[27] indicated the impending storm in the political horizon of India.

Gandhiji now said that he did not want independence but freedom of speech, i. e., freedom to preach "no-war" in India. If that demand was rejected, he would start Satyagraha.[28] He saw Lord Linlithgow and demanded the freedom to tell the people to refrain from assisting in war efforts.[29] On the rejection of this demand, the Working Committee accepted Gandhiji's plan of campaign and assured him of all co-operation.[30]

The Muslim League was glad that the August Offer had given the assurance that no future constitution would be framed without its consent. It insisted, however, on the acceptance of the principle of partition as the basis for any future settlement. As regards the immediate question of co-operation, the ban on Muslim membership of war committees was lifted. But the League was not satisfied with the principle of co-operation in the Central field, account being taken also of the fact that no such co-operation was sought for in those Provinces where the Governor's rule was existing. The League Committee had been asked to send a panel of four out of which two would be selected to serve on the Executive Council. This, according to the League, was not a proportionate share for it. Hence, it found the Offer unsatisfactory. As regards the War Advisory Council, the Working Committee of the League had been asked to send a panel out of which four would be nominated by the Viceroy. The Committee did not know its constitution nor its functions beyond the fact that it would consist of about 20 people. Hence, the Committee found the Offer unacceptable.[31]

The Satyagraha or the non-violent Civil Disobedience began on 17th October, 1940,[32] under the direction of Gandhiji. He did not want it to be a mass movement. That is why he began the campaign by choosing certain Congressmen who individually and separately offered Satyagraha. The campaign was gradually extended to include ordinary four-anna members.[33]

While Gandhiji was conducting the Satyagraha campaign, a Non-Party Conference was held at Bombay under the leadership of Sir Tej Bahadur Sapru on 13th March, 1941. A resolution was passed, demanding—(1) the reconstruction of the Governor-General's Executive Council in such a manner that it would be composed entirely of non-official Indians drawn from important elements in public life, Finance and Defence also being in charge of Indian members; (2) that the Executive Council should be responsible to the Crown and not to the Legislature while the war was in progress, but was to be treated in regard to all interimperial and international matters on the same footing as a Dominion Government; and (3) that the British Government should make a declaration promising India Dominion Status within a specified time limit after the war.[34] Sir Tej Bahadur saw the Viceroy on 7th April to explain this Bombay resolution.[35] He held the view that, if the Congress and the League agreed to come in, they should be allowed to do so. But, even without them, the Central Government must be reconstituted. Mr. Jinnah scoffed at the Bombay Conference as a Dutch Army of all Generals and no soldiers.[36] The British Government's attitude to the Bombay resolution was evident from Mr. Amery's speech of 22nd April, 1941, in which he said that the scheme proposed was not a modification of the then existing government but its supersession —a thing beyond the strain and urgency of the war situation. He thought it would also create internal constitutional problems of no little difficulty and raise the still unresolved issues of the constitutional future. He said that, in the absence of an agreement among the different sections of Indians, no constitutional advance was possible for India. This was, according to him, precisely the reason why the British Government's proposal for the expansion of the Viceroy's Executive Council was in suspense. He thought that difficulty would not be lessened, but inevitably enhanced, by any suggestion of a new type of Executive with more extensive powers. He regretted the fact that Dr. Sapru and his friends had not been able to secure beforehand for their scheme any kind of agreement, if not between the Congress and the Muslim League, at any rate between the latter and other

representatives of the Hindu majority. He told the House of Commons that Mr. Jinnah had repudiated the whole scheme as being entirely on wrong lines and as a trap into which Dr. Sapru had been led by Congress wirepullers, and that the General Secretary of the Hindu Mahasabha had also declared that he would not co-operate in any scheme in which the Hindu community had not been given proportionate representation.

Mr. Amery then discussed the difficulty that would arise if the reconstructed Executive Council was composed of men politically unsupported. Then, objections against it would be much more formidable. He thought, in that case, it would be difficult to pursuade Parliament to confer Dominion or quasi-Dominion powers on such a body.[37]

While moving a resolution in the House of Commons to extend the Proclamations under Section 93 of the Government of India Act, 1935, for another year, Mr. Amery expressd the view that a change in the type of Government during the war was not possible but that there was nothing to prevent the Indians from having discussions among themselves. He pointed out further that, as the Congress Ministries had resigned at the orders of the Congress high command, the other elements in India, namely, the non-Congress Provinces, the Muslim community generally, and the Princes became much more reluctant than ever to take part in a Central Government which was likely to be subject to the control of such majority in the Legislature as would obey the orders of the Congress Central Executive.

He also pointed to the strength, the demand for partition was gaining. "The most significant symptom of the changed situation is the...demand...voiced by Mr. Jinnah for partition", said Mr. Amery. He then referred to the Congress refusal to accept the Federal provisions of the Act of 1935 and said, "Congress repudiated the Federal provisions of the Act of 1935 largely because they weighted representation to some extent in the Legislature, in favour of minority elements, in what it regarded undemocratic sense. Congress, I fear, is blinded to the risk that no alternative Constitution is now likely to emerge

which can secure for it as great a measure of influence and control over India as a whole as it would have exercised under the present Act."

In these circumstances, said Mr. Amery, the whole constitutional field was open for modification or fundamental reconstruction of the then existing Act subject to agreement among the Indian parties as to the type of the constitution they were prepared to work. He added, "If they (the Indian statesmen) come to the conclusion that our type of democracy, with an Executive dependent upon a Parliamentary majority, stands in the way of agreement, and that India's needs could be better met by an Executive deriving its authority more directly from the federated units and, like the American Executive, independent of the Legislature, that.....is their responsibility."[38]

Reading between the lines, Dr. Sapru saw a hint at the partition of India and did not hesitate to protest against it.[39]

Shortly after this, as Germany proved her superior strength by attacking Russia about the middle of June, 1941, the British Government saw the urgency of securing the whole-hearted support of India by doing something for her. Accordingly, the Governor-General's Executive Council was expanded on 22nd July, 1941, and the National Defence Council was established.

The announcement issued by the Governor-General on 22nd July, 1941, reads as follows:—

"As a result of the increased pressure of work in connexion with the war, it has been decided to enlarge the Executive Council of the Governor-General of India in order to permit the separation of the portfolios of Law and Supply and of Commerce and Labour, and the division of the present portfolio of Education, Health and Lands into separate portfolios of Education, Health and Lands and Indians Overseas, and also the creation of the portfolios of Information and of Civil Defence....."[40]

The King approved the following appointments to the five new seats:-

Member for Supply—Sir Hormusji P. Mody.

Member for Information—The Rt. Hon. Sir Akbar Hydari.

Member for Civil Defence—Mr. E. Raghabendra Rao.

Member for Labour—Malik Sir Feroz Khan Noon.

Member for Indians Overseas—Mr. M. S. Aney.

For the vacancies in the places of Sir Zafrulla Khan and Sir Girija Shankar Bajpai the following were appointed:—

Law Member—Sir Sultan Ahmed.

Member for Education, Health and Lands—Mr. Nalini Ranjan Sarkar.

Sir A. Ramaswamy Mudaliar remained Member for Commerce; so did Sir Reginald Maxwell Member for Home Affairs, Sir Andrew Clow Member for Communications, and Sir Jeremy Raisman Member for Finance. The Commander-in-Chief was General Wavell.

In this expanded Executive Council, eight were Indian and four British. Of the eight Indians, three were Muslim, four Hindu and one Parsi. Most of the Indians had held high office before they were appointed to the Executive Council. But they were simply nominees of the Governor-General and were not chosen by any Indian political party. As such, they represented none but themselves. The expanded Executive Council was, therefore, by no means a 'National Government.'

The Secretary of State for India described the increase in the proportion of Indians on the Executive Council as a "change in the spirit, if not in the letter, of the Constitution."[41] As a matter of fact, it was nothing of the kind. Only certain portfolios were separated or created and entrusted to different hands. Of the two new portfolios one was Civil Defence. The department of Civil Defence had nothing to do with military defence. It was to include the A. R. P. and the care of the refugee population and it was expected that it would develop into an important portfolio. The department of Information would include the task of mobilising the country's war effort and sustaining morale and confidence.

The National Defence Council was to consist of about 30 members and would include "representatives" of the Indian States as well as of the Provinces and of other elements in the national life of India in its relation to the war efforts. The Press Communique of 22nd July announced the names of the representatives of the Provinces, those of the States were announed in a Press Communique on 3rd October, 1941. Needless to say, these "representatives" were not chosen by the political parties but were simply nominees of the Governor-General. It included, amongst others, Mr. Fazlul Huq, Chief Minister of Bengal, Sir Md. Saadulla, Chief Minister of Assam and Sir Sikandar Hyat Khan, Chief Minister of the Punjab.

The expansion of the Viceroy's Executive Council and the establishment of the National Defence Council were not received favourably by any of the parties in India. Mr. Jinnah felt offended by the fact that the Viceroy should have canvassed his men over his head, he being the President of the League and its Executive Committee. He threatened disciplinary action against the Chief Ministers of Bengal, Assam and the Punjab as these men were included in the National Defence Council.[42] The Working Committee of the Muslim League met at Bombay on 24th August, 1941, and on the 25th, it passed a resolution calling upon Sir Sikandar Hyat Khan, Sir Mohammad Saadulla and Mr. Fazlul Huq, the Chief Ministers of the Punjab, Assam and Bengal respectively to resign from the National Defence Council.[43] They had no other alternative than to resign.[44] Mr. Huq resigned his membership of the League Working Committee also as a matter of protest.[45]

Mr. Ambedkar, a leader of the Scheduled Castes, cabled to Mr. Amery telling him that it was really surprising that there was no Seheduled Caste member on the expanded Executive Council. He pressed for the inclusion of one Scheduled Caste member.[46]

The Sikhs took it as an insult to themselves that no Sikh had been taken in the Executive Council—specially when that expansion was effected to improve the war effort.[47]

Gandhiji's view was that the announcement did not affect the stand taken by the Congress nor did it satisfy the Congress demand.[48]

Trying to defend the Government's case, Mr. Amery told the House of Commons on lst August, 1941, that it was a matter of general acceptance that India should, as soon as it was practicable, attain to Dominion Status or, as he preferred to call it, a free and equal partnership in the British Commonwealth. "Today the major issue is not whether India should govern herself, but how is she to govern herself....", said Mr. Amery. Further, it was not a case of the British Government's unwillingness to give self-government to India but of the absence of any willingness among the Indians themselves to agree upon the terms on which they would govern themselves—"either India as a whole or.... as separate units." "The whole essence of our policy is to invite, to urge, Indians to come to an agreement, " said he.[49]

On 26th July, 1941, the Second Non-Party Conference was held at Poona under the chairmanship of Sir Tej Bahadur Sapru.[50] He was glad at the expansion of the Executive Council but was not satisfied with the distribution of portfolios like Home, Defence and Finance which had not been transferred to Indian hands. This Conference was important, for it was joined by the Rt. Hon. M. R. Jayakar who had resigned his membership of the Privy Council. He expressd disgust at the attitude of the British Government to the Congress demand because it had, in a way, encouraged the Muslim League.[51]

On 6th August, 1941, a Bill to postpone elections to Provincial Legislatures was introduced in the House of Lords.[52] Under the then existing constitutional provisions (Section 61 (2) of the Government of India Act, 1935), the Legislative Assemblies of the Provinces had a maximum life of five years. That period was to expire soon in 1942. The effect of the Bill was to extend the maximum possible life of those legislative bodies to a period expiring 12 months after the end of the war. The Bill was entirely permissive. The real objective of the British Government behind this Bill was revealed in a speech of Mr. Amery in the House

of Commons in the course of which he said, "I think it would be little less than farcical, at any rate, so long as that position (the withdrawal of Ministries) continues, if elections were held merely in order to afford an opportunity for ventilating Mr. Gandhi's policy of negation, without any prospects of returning to constitutional Government after these elections."[53]

About this time, Reforms Commissioner Hodson investigated the problems of consitutional reform in India. In particular, he examined the possibilities of (1) Composite Cabinets, (2) Irremovable Executives, (3) Redistribution of Provinces, not necessarily on a linguistic basis and (4) a Federation or a Confederation of India as the case might be.[54]

On the top of the exasperation caused by the Britsih policy in India came Mr. Churchill's explanation of the 'Atlantic Charter' In this connection, it may be pointed out that ever since the signing of the Atlantic Charter by President Roosevelt of America and Prime Minister Churchill of Britain on 14th August, 1940, there had been an uneasiness in the public mind as to the true implications of that Charter.

The Atlantic Charter was the first authoritative statement of British war aims and also a basis on which the U. S. A. and Britain fought the Second World War. The Charter had declared that the Countries of the Signatories had no aim of territorial aggrandisement; in future, the free will of the people would determine their form of government and they hoped to see established a peace which would enable nations to live in security within their own boundaries and in freedom from want and fear.[55] Now, in his speech of 9th September, 1941, Mr. Churchill said that the principles of the Charter (i.e., non-aggression, self-determination and national security and freedom) applied only to the war-devastated countries of Europe. According to him, it was quite a separate problem from the progressive evolution of self-governing institutions in the regions and peoples owing allegiance to the British Crown.[56]

Mr. Churchill's statement was disappointing to a degree and

caused embarrassment even to the friends of the British Government in India. Mr. Amery tried to pacify those people by saying that the genuine desire of Britain was to see India find her position, as soon as possible, as a free and equal partner in the British Commonwealth.[57]

In the meantime, the Bill for the postponement of Provincial elections had been given the second and the third readings in the House of Commons; and, in India, the Individual Satyagraha campaign was continuing. A year of that campaign was completed on 17th October, 1941, when began pressures from unattached leaders suggesting the withdrawal of Satyagraha. The Muslim League co-operated with the Government in the Provinces but withdrew its members from the National Defence Council. Though pressed for the withdrawal of Satyagraha, Gandhiji stuck to his point and desired that Civil Disobedience was to continue, in spite of the releases of Civil Disobedience prisoners, as he saw no change of policy on the part of the British Government.[58]

The only change that took place in the political situation was that in October, 1941, the Deputy Leader and Secretary of the Congress Assembly Party thought that the Congress members of the Central Assembly might be permitted to attend the Assembly,[59] if only to retain their seats in the seventh year of its term. Originally, the term was three years but it had been extended from time to time by the Governor-General under Section 63 (D) of the Government of India Act as continued in force (with amendments) by the Ninth Schedule to the Government of India Act, 1935.

So, the deadlock remained unresolved when the Japanese attack on Pearl Harbour in December, 1941, gave a serious turn to the war[60]. The Congress Working Committee, which met from 23rd December to 30th December, 1941, at Bardoli, adopted a resolution virtually suspending the Satyagraha movement.[61] It seems that the movement was intended to act as a feeler to ascertain the reaction of the British Government; and, on the accomplishment of its objective, it was abandoned.

The shape of events to come was also, to a certain extent,

influenced by the visit of Generalissimo Chiang Kai-shek of China to India in February, 1942. In a message to the people of India, he said, "I sincerely hope and I confidently believe that our ally, Great Britain without waiting for any demands on the part of the people of India, will, as speedily as possible, give them real political power so that they may be in a position further to develop their spiritual and national strength and thus realise that their participation in the war is not merely an aid to the anti-aggression nations for securing victory, but also a turning point in their struggle for India's freedom. From an objective point of view, I am of the opinion that this would be the wisest policy which will redound to the credit of the British Empire."[62]

Chiang's message to the people of India was virtually an appeal to the British Government to give India independence. This appeal from an ally was not wholly lost on Britain. Possibly also due to American pressure, the British Government saw the necessity of doing something for resolving the Indian deadlock.[63] The result was the Cripps Mission to India.

CHAPTER VI

THE CRIPPS MISSION.

Owing to the imminence of the Japanese invasion of India, the British War Cabinet realised the importance of the whole-hearted co-operation of the Indian people and sent Sir Stafford Cripps, Lord Privy Seal, a member of the War Cabinet, to India with its proposals. Sir Stafford had already suggested some changes with a view to solving the Indian problem.[1] Behind the decision of the War Cabinet, there were also a general feeling in Britain that the Indian deadlock must be resolved, the appeal of Chiang Kai-shek and possibly also pressure from the American Government.[2] Sir Stafford Cripps' visit to India was announced by Mr. Churchill in the House of Commons on 11th March, 1942. The Prime Minister said—"The crisis in the affairs of India arising out of the Japanese advance has made us wish to rally all the forces of Indian life, to guard their land from the menace of the invader. In August, 1940, a full statement was made about the aims and policy we are pursuing in India. This amounted, in short, to a promise that, as soon as possible after the war, India should attain Dominion Status, in full freedom and equality with this country and the other Dominions, under a Constitution to be framed by Indians by agreement among themselves and acceptable to the main elements in Indian national life. This was, of course, subject to the fulfilment of our obligations for the protection of minorities, including the depressed classes, and of our treaty obligations to the Indian States, and to the settlement of certain lesser matters arising out of our long association with the fortunes of the Indian sub-continent.

'However, Sir, in order to clothe these general declarations with precision and to convince all classes, races and creeds in India of our sincere resolve, the War Cabinet have

agreed unitedly upon conclusions for present and future action which, if accepted by India as a whole, would avoid the alternative dangers either that the resistance of a powerful minority might impose an indefinite veto upon the wishes of the majority or that a majority decision might be taken which would be resisted to a point destructive of internal harmony and fatal to the setting up of a new Constitution. We had thought of setting forth immediately the terms of this attempt, by a constructive British contribution, to aid India in the realisation of full self-government. We are, however, apprehensive that to make a public announcement at such a moment as this might do more harm than good. We must first assure ourselves that our scheme would win a reasonable and practical measure of acceptance, and thus promote the concentration of all Indian thought and energies upon the defence of the native soil. We should ill-serve the common cause if we made a declaration which would be rejected by essential elements in the Indian world, and which provoked fierce constitutional and communal disputes at a moment when the enemy is at the gates of India.

"Accordingly, we propose to send a member of the War-Cabinet to India, to satisfy himself upon the spot, by personal consultation, that the conclusions upon which we are agreed, and which we believe represent a just and final solution, will achieve their purpose. My right hon. and learned Friend the Lord Privy Seal and Leader of the House has volunteered to undertake this task. He carries with him the full confidence of His Majesty's Government, and he will strive in their name to procure the necessary measure of assent, not only from the Hindu majority, but also from those great minorities, amongst which the Moslems are the most numerous and, on many grounds, pre-eminent.

"The Lord Privy Seal will, at the same time, consult with the Viceroy and the Commander-in-Chief upon the military situation, bearing always in mind the paramount responsibility of His Majesty's Government by every means in their power to shield the peoples of India from the perils which now beset

them. We must remember that India has a great part to play in the world's struggle for freedom and that her helping hand must be extended in loyal comradeship to the valiant Chinese people, who have fought alone so long. We must remember also that India is one of the bases from which the strongest counterblows must be struck at the advance of tyranny and aggression."[3]

The object of Sir Stafford's visit was to ascertain whether the proposals of the War Cabinet would be generally acceptable to Indian opinions. To this end, he was to hold discussions with the Viceroy at first and then meet the Commander-in-Chief and other members of the Executive Council and the Provincial Governors. The Indian National Congress, the Muslim League, the Chamber of Princes and the Hindu Mahasabha were asked to nominate their own representatives to hold discussions with him, and representatives of the Sikhs, the Liberal Party and the Scheduled Castes also were invited to meet him. Sir Stafford Cripps also desired to see other representative people including the Provincial Chief Ministers.[4]

Cripps reached New Delhi on 23rd March,[5] and the proposals were published on 30th March, 1942.[6] During the interval, he interviewed Indian leaders. The draft declaration, which he issued on behalf of the British Government, was as follows :—

"His Majesty's Government, having considered the anxieties expressed in this country and in India as to the fulfilment of the promises made in regard to the future of India, have decided to lay down in precise and clear terms the steps which they propose shall be taken for the earliest possible realisation of self-government in India. The object is the creation of a new Indian Union which shall constitute a Dominion, associated with the United Kingdom and the other Dominions by a common allegiance to the Crown, but equal to them in every respect, in no way subordinate in any aspect of its domestic and external affairs.

"His Majesty's Government, therefore, make the following declaration :

"(a) Immediately upon the cessation of hostilities, steps shall be taken to set up in India, in the manner described hereafter, an elected body charged with the task of framing a new Constitution for India.

"(b) Provision shall be made, as set out below, for participation of the Indian States in the constitution-making body.

"(c) His Majesty's Government undertake to accept and implement forthwith the Constitution so framed subject only to :—

"(I) the right of any Province of British India that is not prepared to accept the new Constitution to retain its present constitutional position, provision being made for its subsequent accession if it so decides.

"With such non-acceding Provinces, should they so desire, His Majesty's Government will be prepared to agree upon a new Constitution, giving them the same full status as Indian Union, and arrived at by a procedure analogous to that here laid down.

"(II) the signing of a Treaty which shall be negotiated between His Majesty's Government and the constitution-making body. This Treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands ; it will make provision, in accordance with undertakings given by His Majesty's Government, for the protection of racial and religious minorities ; but will not impose any restriction on the power of the Indian Union to decide in the future its relationship to the other Member States of the British Commonwealth.

"Whether or not an Indian State elects to adhere to the Constitution, it will be necessary to negotiate a revision of its Treaty arrangements, so far as this may be required in the new situation.

"(d) The constitution-making body shall be composed as follows, unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities :—

"Immediately upon the result being known of the Provincial elections which will be necessary at the end of hostilities, the entire membership of the Lower Houses of Provincial Legislatures shall, as a single electoral college, proceed to the election of the constitution-making body by the system of proportional representation. This new body shall be in number about one-tenth of the number of the electoral college.

"Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of representatives of British India as a whole, and with the same powers as British Indian members.

"(e) During the critical period which now faces India and until the new Constitution can be framed His Majesty's Government must inevitably bear the responsibility for and retain control and direction of the defence of India as part of their world war effort, but the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the co-operation of the people of India. His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth and of the United Nations. Thus they will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future freedom of India."[7]

According to the Proposal, therefore, India would, after the war, become a Dominion with the full right to secede from the British Commonwealth and with the right to enter independently into treaties with any other nation in the world. The new constitution of India would be framed by a Constituent Assembly composed of representatives of the Provinces and the Indian States. The representatives of the Provinces were to be elected

by the lower houses of Provincial Legislatures elected after the cessation of hostilities. The representatives of the States would be nominees of their Rulers. The constitution-making body would have as its object the framing of a single constitution for the whole of India. The Provinces were to come together to frame a common constitution. But, if they found that they could not overcome their differences and some Provinces were still not satisfied with the constitution, then such Provinces could remain out with complete self-government.[8] In a letter to Moulana Azad (dated April 2, 1942) Sir Stafford Cripps said that a Province should reach its decision by a vote in the Legislative Assembly on a resolution that the Province should join the Indian Union and that, if the majority for accession was less than 60%, the minority would have the right to demand a plebiscite of the adult male population[9] which would then determine the matter by a simple majority. It seems that the resolution might be negatived effectively (i.e., a Province might decide not to join the Indian Union) by a simple majority in the Legislative Assembly.

A treaty was to be concluded between the British Government and the constitution-making body providing for the transfer of power. Such a treaty would make provision for the protection of racial and religious minorities. Without fulfilment of the provisions relating to the Provinces and minorities, the British Government would not accept or implement the new constitution.

The main features of the draft declaration so far as the future was concerned were, therefore, provisions for Dominion Status with the right of secession, for the constitution to be framed by a Constituent Assembly, for a possible partition of the country and for a treaty providing for the transfer of power and safeguards for minorities.

As later events showed, the hint of a possible partition of the country encouraged disintegrating tendencies in India. The leaders had, henceforth, to consider the problems in terms of partition. While Mr. Jinnah stiffened his attitude,

the Congress wavered. The Delhi resolution of the Congress Working Committee (issued on 11th April, 1942) observed that, even though the Congress was wedded to Indian freedom and unity, it could not "think in terms of compelling the people of any territorial unit to remain in an Indian Union against their declared and established will."[10] Perhaps, the Congress felt that, only in this way, could it secure the co-operation of the Muslim League in its fight against British imperialism. When that co-operation was not forthcoming, it resiled from this position. The A.I.C.C., sitting at Allahabad from 29th April to 2nd May, adopted a resolution throwing away the Working Committee's resolution on territorial self-determination.[11]

As regards the immediate future, the Cripps Proposal was to transfer all the departments except Defence to Indian hands. The British view-point was that, in a far-flung war (such as the war then was), defence could not be localised in a single country. If the British Government was to take full responsibility for the conduct of the naval, military and air defence of India, as it was its duty to do, then the defence of India must be dealt with by it as part of the world war effort in which it was then engaged, and the direction of that defence must rest in the hands of the Commander-in-Chief in India under the War Cabinet and the highest staff officers. So, the Commander-in-Chief was to retain his position as a Member of the Executive Council.[12]

The Congress Working Committee considered the Proposal at its meeting at New Delhi from 29th March to 10th April, 1942. It passed a resolution rejecting the Proposal. This resolution was communicated to Sir Stafford Cripps on 2nd April. Negotiations were, however, continued till 10th April, when they finally broke down. The resolution was published on 11th April.

The Congress Working Committee appreciated that the principle of self-determination for the people of India was implicitly recognised in the Proposal, but that it related to an uncertain future—"upon the cessation of hostilities." It regretted

that this recognition was fettered and certain provisions were introduced which gravely imperilled the development of a free and united nation and the establishment of a democratic state. The constitution-making body would be constituted in such a manner as to include non-representative elements. The democratic element had been shelved so far as the people of the States were concerned.

The Working Committee viewed with grave concern the provision for the partition of India—for, under the plan, it was entirely voluntary on the part of the Provinces and the States to join the Union of India. Any Province or State could remain outside the Indian Union. The acceptance beforehand of the novel principle of non-accession for a Province was a severe blow to the conception of Indian unity and an apple of discord which was likely to generate growing trouble in the Provinces, and which might well lead to further difficulties in the way of the Indian States merging themselves in the Indian Union.

Though the Congress was wedded to the ideals of freedom and unity for India, the Working Committee, nevertheless, made the following observations regarding partition :—"The Committee cannot think in terms of compelling the people of any territorial unit to remain in an Indian Union against their declared and established will." However, the acceptance of the principle inevitably involved that no changes should be made which would result in fresh problems being created and compulsion being excercised on other substantial groups within that area. Each territorial unit would have the fullest possible autonomy within the Union, consistently with a strong national state. The draft declaration would lead to attempts at separation at the very inception of a Union and thus create friction just when utmost co-operation and goodwill were needed.

Though the Congress Working Committee paid so much attention to the Proposal so far as it related to the distant future, it was much more interested in the immediate future. It

found the British War Cabinet's proposals vague and incomplete, so far as the immediate future was concerned. The Working Committee observed : "It has been made clear that the defence of India will in any event remain under British control. At any time defence is a vital subject ; during war time it is all important and covers almost every sphere of life and administration. To take away Defence from the sphere of responsibility at this stage is to reduce that responsibility to a farce and nullity, and to make it perfectly clear that India is not going to function as a free and independent Government during the pendency of the war."[13] The Committee was, therefore, unable to accept the Cripps Proposal.

Moreover, after the first interview of Moulana Azad, the then President of the Congress, with Sir Stafford Cripps, the Congress was under the impression that the new Central Government would function as a Cabinet, and, therefore, the Governor-General's relation with his Executive Council would be the same as that of the British Monarch with his Cabinet.[14] But the new picture was not very different from the old—it would just be the Governor-General and his Executive Council with the Governor-General having all his old powers. The Congress had not asked for any legal changes but it had certainly asked for definite assurances and conventions that the new Government would function as a free Government. In regard to the conduct of the war, the Commander-in-Chief would have freedom and he would act as the War Minister. Even though it could not accept the Proposal, the Congress expressed its readiness to assume responsibility, if a truly National Government was formed. By National Government, the Congress now meant a Cabinet Government with full power.[15]

Before the final failure of the Mission, a lot of negotiations were carried on between the Congress representatives and Sir Stafford Cripps concerning the department of Defence. In his letter to the Congress President, dated 7th April, 1942, Cripps proposed that the department of Defence should be

divided into 'War' and 'Defence Co-ordination' departments, the Commander-in-Chief retaining his seat on the Governor-General's Executive Council as 'War Member.' He would retain his full control over all the war activities of the armed forces in India, subject to the control of the British Government and the War Cabinet. (There was to be a representative Indian in the War Cabinet with equal powers in all matters relating to the defence of India. Membership of the Pacific Council was likewise to be offered to a representative Indian). An Indian representative Member would be added to the Governor-General's Executive Council who would take over those sections of the department of Defence which could be organisationally separated immediately from it. These were specified in an annexure to the letter. In addition, this Member would take over the existing Defence Co-ordination department which was then directly under the Viceroy and certain other important matters vitally connected with defence but not under any other department.

The matters proposed to be transferred from the then existing Defence department to the new Defence Co-ordination department were :—(a) Public relations ; (b) demobilisation and post-war reconstruction ; (c) Petroleum Officer's functions; (d) Indian representation on the Eastern Group Supply Council ; (e) amenities for, and welfare of, troops and their dependents, including soldiers abroad ; (f) all canteen organisations ; (g) certain non-technical educational institutions, e.g., the Lawrence School ; (h) stationery, printing and forms for the Army ; (i) reception, accommodation and social arrangements for all missions, representatives and officers.

In addition, the Defence Co-ordination department would take over many major questions bearing on defence, but difficult to locate in any existing particular department, for example, (a) denial policy ; (b) policy of evacuation from threatened areas ; (c) signals co-ordination; (d) economic warfare.[16]

This formula for Defence was rejected by the Congress

Working Committee on the ground of inadequacy.[17] On its rejection, a second formula was placed before the Working Committee by Col. Johnson (who was then in India as the head of the American Trade Mission) with the previous approval of Sir Stafford Cripps.[18] The Congress Working Committee modified the scheme and sent it to Sir Stafford on 8th April.[19] He amended the formula which was received by the Working Committee on the afternoon of 8th April.[20] In the formula thus amended, the existing department of Defence was proposed to be divided into two departments, namely, Defence and War. The Commander-in-Chief was to be in charge of the War department and a representative Indian Member in charge of the Defence department. Both the War Member and the Defence Member were to be on the Executive Council of the Govérnor-General. To the Defence Member were to be allotted all functions relating to defence other than those actually connected with the General Headquarters, Navy Headquarters and Air Headquarters. Matters actually connected with the General Headquarters, Navy Headquarters and Air Headquarters were to remain under the Commander-in-Chief who would also function as the War Member.

The Congress Working Committee asked for an illustrative list of the functions of both the Defence Member and the War Member in order to understand the implications of the proposal.[21] No such lists were sent.[22] At last, the Congress Working Committee decided on 10th April that it could not accept the Proposal as it stood.[23]

The other parties also rejected the Proposal, but, for different reasons.[24]

The Sikhs were opposed to the Proposal because there was provision for separation of Provinces and constitution of Pakistan resulting in the betrayal of the cause of the Sikh community.[25] They demanded an autonomous unit for the population of any area opposed to separation.[26]

To the Muslim League, the idea of a single Union,

the machinery for the creation of the constitution-making body, the procedure for ascertaining the will of a Province as to accession—all these were objectionable enough. It wanted that, in case a plebiscite was necessary to decide the question of the accession of a Province, reference should be made to the Muslims alone and not to the whole adult male population of the Province. It was, however, gratified that the possibility of Pakistan was recognised by providing for the establishment of two or more independent Unions in India but regretted that the proposals of the British Government embodying the fundamentals were not open to any modification and, therefore, no alternative proposals had been invited. The Muslim League Working Committee resolved, therefore, that it could not accept the Proposal.[27]

Some leaders of the Scheduled Castes were afraid that the proposals of Sir Stafford Cripps, if accepted by them, would undoubtedly place them under an unmitigated system of Caste Hindu rule.[28]

Sir Tej Bahadur Sapru and Dr. M. R. Jayakar presented a memorandum to Cripps on 4th April, 1942. In this memorandum, they strongly pressed for the inclusion of an Indian Defence Member in the Governor-General's Executive Council and asked that the majority required for a decision by a Provincial Legislative Assembly for or against accession should be 65% of the Indian members present at the meeting where the decision would be taken. The memorandum opposed a plebiscite. In addition, it pressed for the restoration of popular Governments in the Provinces.[29]

On 11th April, 1942, Sir Stafford announced at a Press conference that the British Government's draft Proposal was withdrawn.[30]

Speaking in the House of Commons on 28th April, Cripps tried to justify the Proposal and so to meet the objections of the Congress. As to the non-accession of Provinces, he said that the draft declaration was only a "compromise"

between the "two extreme views" and no more than what the Congress leaders had said they themselves were prepared to do, that is, "to keep open the issue of Pakistan." Secondly, as to the position of the States, Cripps said that the Congress leaders had protested against the States' representatives to the constitution-making body being nominated by the Rulers and not elected by the people. He pointed out that representative institutions had not till then developed in the majority of the States. So, the States had to be dealt with as they were, if they were to be brought into the Constituent Assembly. So far as the minorities were concerned, non-accession had been granted only to the Muslims because they were sufficiently localised. Provision for the protection of such minorities as the Sikhs, the Indian Christians and the Depressed Classes and others was proposed to be made in the treaty.

Regarding Defence, Cripps said that there was unanimity regarding the fact that actual technical conduct of the war was to remain under the British Commander-in-Chief. But differences of opinion arose regarding the responsibilities of the Government of India apart from those of the British Government. So far as the latter were concerned, these could be satisfactorily dealt with (according to Cripps) by having a representative Indian on the War Cabinet and on the Pacific Council, seats on both of which had been offered to the Indian leaders. This principle of division of responsibilities had been embodied in clause (e) of the draft Proposal.

Now, since the last war, the Commander-in-Chief had also held the post of Defence Member on the Viceroy's Executive Council and his functions had been notionally divided between the posts that he held. The functions were so interlinked that it would be well-nigh impossible to make a complete separation of the functions of the Commander-in-Chief from those of the Defence Member. The plan for the Defence department as made under the draft Proposal was, in a way, a confirmation and extension of what actually existed at that

time. Cripps said that, though the question had not actually arisen, from the attitude of the minorities, he was sure that they would not have liked further transfer of responsibility in the matter of defence. But the final break did not come on this issue.

The final break came, as Cripps said, on the question of the form of the temporary Government that was to be in power till the end of the war and the coming into operation of the new constitution. The general principle of participation had been laid down in the draft Proposal but the exact nature of its operation could only be decided by discussions of the leaders with the Viceroy. Cripps told the leaders that they should first accept the Proposal and then enter into discussions with the Viceroy but he himself could not bind the Viceroy to accept any particular arrangement for the conduct of his Executive.

Cripps' own view was that "the position of complete power asked for by Congress.....would leave the matter in an impossible situation." If the Congress view was accepted, "the Executive Council once chosen by the Governor-General would not have been responsible to any one but themselves, or in a somewhat loose way perhaps to their political or communal organizations, and there would have been no protection for any one of the minorities." Cripps was confident that "none of the minorities would have accepted such a position and least of all the Moslems." He said that "it was on this issue that the final break came followed by a rejection by the Moslem League, for reasons the precise opposite of those stated by Congress."[31]

For the break-down of the talks, Sir Stafford Cripps laid all the blame at the door of the Congress. Even just before he declared the breakdown, he had sent a letter to the President of the Congress accusing it of the desire to dominate the minorities.[32] The same was repeated in his farewell statement on 11th April, when he said that, formed within the framework of the Government of India Act, the National Government

would not be removable by the Legislature and the majority would be in a position to dominate large minorities.[33]

The Congress found the accusations unfair because it had accepted the idea of a composite Cabinet and had never spoken a word about the number of members that should be allotted to it or the Muslim League in the Executive Council.[34] As regards the possible objections of the minorities, Sir Stafford himself admitted that he had not discussed the question with the Congress.[35]

Apart from the apparently objectionable features of the plan, namely, that it was a scheme tending to divide India, that the States people were made a chattel, that it was a promise for an uncertain future and that the plan for the immediate future was not substantial, the real bottleneck would have been the provision relating to the treaty providing for the transfer of power.

This treaty, it must be remembered, would cover all necessary matters arising out of the transfer of power from British to Indian hands. It would make provision, in accordance with the undertakings given by the British Government, for the protection of racial and religious minorities. That this clause was entered with a view to making the treaty difficult, there can be no doubt. The British Government could easily refuse to sign the treaty on the ground that it did not make adequate provision for the protection of religious and racial minorities. Even if 'Defence' were transferred and full cabinet responsibility established, all the efforts of the proposed Constituent Assembly could be set at naught by the simple formula that the interests of the racial and religious minorities had not been adequately safeguarded.

This fact alone brings out the true nature of the draft Proposal. Dr. Sitaramayya says that the Proposal was made due to American pressure.[36] According to him, it was just a repetition of the August Offer with a provision for partition. It contained matters that sought to pacify all sections of Indian

political life and, just for that reason, pleased none. To please the Congress, there was the provision for granting Dominion Status with the right to secede, and for the Constituent Assembly which would have the right to declare secession at the outset. To satisfy the Muslim League, there was the provision for a possible division of the country. The Princes had the right to send their nominees to the Constituent Assembly but were left free to join or not to join the Indian Union.[37] For the minorities, there was the provision that the proposed treaty would provide for the protection of racial and religious minorities.

It seems that the partition of the country had been accepted as a principle by the British Government. The Congress also was coming round to the idea of a partition of the country.

However, as Cripps said much later, on 5th March, 1947, in the House of Commons, "there was set a term upon Britain's continued control of India, though the length of that term was left in the hands of the Indians themselves to decide." Further, although the offer did not materialise, "it did, nevertheless, have the effect of encouraging all parties in India to look for an early realisation of their freedom, either by the path of unitary central government or the other path which envisaged a possible division."[38]

To what extent was the Congress responsible for the failure of the Cripps Mission ?

The Congress had demanded a united, independent India. The promise of Dominion Status with the right of secession was akin to independence—though in an uncertain future. Again, the Congress had asked for a Constituent Assembly. That also had been promised. There were two things which went against Congress principles. The one was the provision for a possible partition, and the other was that the States people were not given the right to determine their own future.

The Congress, being much more interested in the immediate future, had been demanding a National Government. The

idea was that all the departments including Defence should be Indianised and that the Governor-General's power to exercise his veto should be abolished. This power he had been enjoying under Section 41 (2) of the Government of India Act as per Ninth Schedule to the Government of India Act, 1935. With the abolition of the veto, the Governor-General would act merely as a constitutional head. The Congress had not asked for any legal changes—but only some assurances that the Governor-General would not exercise his veto.

To Sir Stafford Cripps, these changes were far-reaching and hence could not be effected during the war. Defence could not be totally transferred to Indian hands, for it involved a matter of policy which could not be decided by Indians alone. To abolish the Governor-General's veto, again, would require the abolition of all the provisions of the Government of India Act, 1935, requiring the Governor-General and the Governors to act in their individual judgment or discretion.[39] These changes, according to Sir Stafford Cripps, could not be made during the war. He felt that to make such a change in the Constitution would vitally affect India's foreign relations which were the British Government's concern, or the position of the Commander-in-Chief, or even the Secretary of State's Services which were guaranteed certain rights under the Government of India Act, 1935.

The fact was that the British Government was not willing to transfer power whereas the Congress demanded a real and tangible advance towards complete independence. The position was clearly explained by Mr. Sorensen, a member of the British Parliament, who also resented the British Government's attitude. According to him, the Congress demanded an "initial pledge of complete responsibility for the formation of a government. They felt that if they were to have a really responsible central government then, instead of the Viceroy acting as Prime Minister, they should have their own Prime Minister and that Prime Minister ..... should have the responsibility of

forming a government at the centre to act during the war-period." He added, "Although there may be great risks and dangers attached to it, nevertheless, by taking the risks and adventuring on that bold course, one could solve the problem, at least temporarily."[40]

CHAPTER VII

THE QUIT INDIA MOVEMENT*

Just after Cripps had gone, Gandhiji began his campaign for the withdrawal of the British power from India. He began his campaign late in April, 1942. It was his view that, "whatever the consequences.....to India, her real safety and Britain's too lie in an orderly and timely British withdrawal from India."[1] Complete and immediate withdrawal of the British from India would, according to him, at once put the Allies' cause on a completely moral basis. He asked for a bloodless end of an unnatural domination and for a new era. "Under my proposal, they have to leave India in God's hands —but in modern parlance to anarchy," said he.[2] By 'British withdrawal' he meant, of course, the withdrawal of British domination only. He was of the view that a treaty should next be made with India fixing the conditions on which British and Allied troops might continue in India during the war. He held that, if only the British withdrew, the various groups in India would come together.[3]

On 14th July, 1942, the Congress Working Committee (which met at Wardha) released a resolution demanding the withdrawal of the British power from India.[4] This decision of the Working Committee was interpreted by Mr. Jinnah as "the culminating point in the policy and programme of Mr. Gandhi and his Hindu Congress of blackmailing the British and coercing them to concede a system of government and transfer power to that government which would establish a Hindu Raj

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* " 'Quit India' was an apocryphal and much misunderstood phrase fathered upon Gandhiji ; it was really coined by an American Press correspondent in the course of an interview with Gandhiji and caught on. The actual expression used by Gandhiji was 'orderly British withdrawal.' " (Pyarelal : Mahatma Gandhi—The Last Phase, vol I. p. 707)

immediately under the aegis of the British bayonet, thereby throwing the Muslims and other minorities and other interests at the mercy of the Congress Raj."[5]

The resolution of the Congres Working Committee held that British rule in India must end immediately and that the freedom of India was necessary not only in the interest of India but also for the safety of the world. It further said that, in making the demand for the withdrawal of British rule from India, the Congress had no desire to embarrass Great Britain or the Allied Powers in their prosecution of the war, or in any way to encourage aggression on India or increased pressure on China by the Japanese or any other Power associated with the Axis group. Further, the Congress did not intend to jeopardise the defensive capacity of the Allied Powers. The Congress, therefore, would not object to the stationing of the Allied Forces in India for the purpose of warding off and resisting Japanese or other aggression. The Working Committee held that, if such withdrawal took place with goodwill, it would result in establishing a stable Provisional Government in India and co-operation between the Government and the United Nations in resisting aggression and helping China. The Congress would plead with the British Power for the "very reasonable and just proposal," thus made in the interest not only of India but also of Britain and of the cause of freedom to which the United Nations proclaimed their adherence. If this appeal failed, the Congress would launch a non-violent struggle for the vindication of political rights and liberties under the leadership of Gandhiji.

This resolution was endorsed by the A.I.C.C. in Bombay on 8th August, 1942. The Committee resolved "to sanction, for the vindication of India's inalienable right to freedom and independence, the starting of a mass struggle on non-violent lines, on the widest possible scale, so that the country might utilise all the non-violent strength it has gathered during the last twenty-two years of peaceful struggle. Such a struggle must inevitably be under the leadership of Gandhiji and the

Committee requests him to take the lead and guide the nation in the steps to be taken."

The Committee appealed to the people of India "to face the dangers and hardships that will fall to their lot with courage and endurance, and to hold together under the leadership of Gandhiji and carry out his instructions as disciplined soldiers of Indian freedom. They must remember that non-violence is the basis of the movement. A time may come when it may not be possible to issue instructions or for instructions to reach our people, and no Congress Committees can function. When this happens, every man or woman who is particularly in this movement must function for himself or herself within the four corners of the general instructions issued. Every Indian who desires freedom and strives for it must be his own guide urging him on along the hard road where there is no resting place and which leads ultimately to the independence and deliverance of India."

The A.I.C.C. wished to make it clear "to all concerned that by embarking on a mass struggle" it had "no intention of gaining power for the Congress." And that power, when it came, would belong to the people of India.[6]

The Congress was in no hurry to launch the Civil Disobedience movement before making the last attempt at settlement by a talk with the Viceroy and, if necessary, by addressing China and America.[7]

Gandhiji himself publicly declared that, before starting the movement, he would write to the Viceroy and wait for his reply.[8] Unfortunately, the opportunity never came; for, before the day-break of 9th August, Gandhiji, Mrs. Gandhi and his companions, the members of the Working Committee and forty leading citizens of Bombay were arrested and taken to unknown destinations which were later known to be the Aga Khan's Palace in Poona and the Mughal Fort of Ahmednagar. In Bombay, the police occupied the Congress house and the pandal of the A.I.C.C. All meetings and processions were banned

and the entire police force and military contingents were mobilised. "What happened in the city of Bombay happened over the whole of India, in the States and Provinces, in cities and towns. Congress Committees were declared unlawful bodies, Congress offices were seized and locked. Congrss functions were interdicted."[9]

The arrest and detention of the Congress leaders led to the outburst of a mass revolt and a mass frenzy, as a result of which communications were dislocated, railway and police stations were burnt and even parallel governments were set up in some places. The Government took strong steps to check the disturbances. In fact, as the Government adopted repressive measures, the people became violent, and the Government took still more drastic steps.[10]

In an order, dated 8th August, 1942, the Central Government prohibited the publication of any news relating to the mass movement or to the measures taken by the Government against that movement, except those derived from certain specified sources.[11] Indeed, the Government was determined to meet the challenge thrown out by the Congress. As early as 17th July, a confidential circular had been issued by Sir Frederick Puckle, Secretary to the Government of India, to the Chief Secretaries of all Provincial Governments and to the Chief Commissioners.[12] The objectives were :—(1) to encourage the supporters of the Government and (2) to win over the waverers.[13]

The Government of India declared that the decision to arrest Gandhiji and his colleagues was unanimously taken by the new Executive Council having on it eleven Indians[14] and that, though Mr. Aney and Mr. Sarkar were absent from the meeting at which the decision was taken, they had approved the policy at earlier discussions.[15]

The decision to arrest the leaders was followed up by a resolution of the Government of India on 8th August, 1942, in which the Government referred to "the dangerous preparations by the Congress Party for unlawful and, in some cases, violent

activities."[16] According to Dr. P. Sitaramayya, the programme of the campaign was not at all worked out by the Congress Working Committee and these charges were made at a time when no Congressman was left outside to answer them.[17] The resolution of the Government also referred to the Congress demand which, according to it, could not be accepted for the reason that it would plunge the country into confusion and anarchy. It restated the steps taken by the Government and concluded by saying that "the fullest opportunity for the attainment of self-government by the people of India has been guaranteed by His Majesty's Government."[17]

Following the arrest of the Congress leaders (on 9th and 10th August, 1942), Mr. Amery broadcast two talks in which he made the Congress responsible for the failure of the Cripps Mission.

When Parliament met on 10th September, 1942, Mr. Churchill made a statement. In the course of this statement, he said that the Congress Party had given up the non-violence of "Gandhi" and had taken to revolutionary methods—as a result, the defence of India was being jeopardised in the face of the imminent Japanese invasion. He alleged that the activities of the Congress Party were aided by Japanese "fifth-column" work. In his opinion, therefore, the policy of the Government of India stood justified. Mr. Churchill further said that there was no compulsory service in India, people having volunteered for the army. And further, the administration of India was mostly in Indian hands, there being only 600 British members of the Civil Service. He was proud that the "Congress Conspiracy" was breaking down, the Indians having behaved admirably. He summed up the whole situation in the following manner :—

"The outstanding fact which has so far emerged from the violent action of the Congress Party has been its non-representative character and powerlessness to throw into confusion the normal peaceful life of India. It is the intention of the Government to give all necessary support to the Viceroy and his

Executive in the firm but tempered measures by which they are protecting the life of the Indian community and leaving the British and the Indian armies free to defend the soil of India against the Japanese."[18]

In replying to the debate on 11th September, 1942, Mr. Amery said that there could be no chance of success of any negotiation unless there was a "change of heart" on the part of the Congress.[19]

On 13th February, 1943, the Government of India brought out a booklet entitled "Congress Responsibility For The Disturbances, 1942-43."[20] It blamed Gandhiji and the Congress for the wide-spread disturbances following the arrests of 9th August. By quoting extensively from the speeches of Gandhiji from 19th April, 1942, onwards, it wanted to show that Gandhiji's was an "open rebellion."

From his detention camp, Gandhiji replied to the charges brought forward against the Congress and himself in his letter to the Additional Secretary, Home Department, Government of India, dated 15th July, 1943.[21] Thereafter, there was a series of correspondence between Gandhiji and Mr. Tottenham, Additional Secretary, Home Department, Government of India. Gandhiji denied the charges, brought countercharges against the Government and demanded an impartial tribunal for investigation.[22] The Government refused to relent unless the August resolution of the Congress was withdrawn. Gandhiji regretted his inability to alter the August resolution. He said that this could be done only by the A.I.C.C. He expressed his desire to discuss the matter with the Congress Working Committee and wanted the members of the Working Committee to be released but his request for a meeting with the Working Committee was rejected by the Government.[23] Later on, in a letter (dated 17th February, 1944) to Lord Wavell, the Governor-General, Gandhiji wrote—"The Congress and I are wholly innocent of the charges brought against us." He also asked for an impartial tribunal to enquire into the charges made by the Government.[24] Then, in his letter of 9th March,

1944, to the Governor-General,[25] Gandhiji resented the attitude of the Government revealed in the Governor-General's address to the Central Legislature. In this address, the Governor-General had said that he saw "no reason to release those responsible for the declaration of 8th August, 1942," until he "was convinced that the policy of non-co-operation and even of obstruction had been withdrawn."[26]

CHAPTER VIII

THE GOVERNMENT AND THE NON-CONGRESS ELEMENTS

After the failure of the Cripps Mission, there was a feeling of frustration among all sections of the people. The Government now adopted a policy of by-passing the Congress and encouraging its own supporters and winning over the waverers.

One of the measures, adopted by the Government with this end in view, was the expansion of the Governor-General's Executive Council by the appointment of more non-official Members. The total membership of the Executive Council was increased from twelve to fifteen (2nd July, 1942).[1] There were now on it eleven Indians instead of eight as previously. The number of Europeans remained four as before but one of them now was a non-official.

The department of Defence was divided into two departments : the one was 'Defence' under an Indian Member and the other was 'War' under the Commander-in-Chief. Similarly, the department of Communications was divided into the departments of (1) War Transport and of (2) Posts and Air, the latter being under an Indian. The third additional Indian Member was one without portfolio. He was a representative of the Government of India on the British War Cabinet and on the Pacific War Council in London. Of the four European Members, three were officials including the Commander-in-Chief and one was a non-official. The Indian Members were all non-officials drawn from several communities—Hindu including Scheduled Castes, Sikh, Parsi and Muslim.

Sir Archibald Percival Wavell, Commander-in-Chief, now became War Member. Sir Reginald Maxwell, I.C.S., remained Member in charge of the Home Department and Sir Jeremy

Raisman, I.C.S., in charge of Finance. Sir E.C. Benthall, a non-official European, was appointed Member for War Transport.

Sir A. Ramaswamy Mudaliar was appointed Member without portfolio to be a representative of the Government of India on the British War Cabinet. Sir C. P. Ramaswamy Aiyer was appointed Member for Information in succession to the late Sir Akbar Hydari, Sir J. P. Shrivastava Member in charge of Civil Defence in succession to the late Raghavendra Rao, Mr. N. R. Sarkar Commerce Member to succeed Sir A. Ramaswamy Mudaliar, Sir Jogendra Singh Member in charge of Education, Health and Lands in succession to Mr. N. R. Sarkar, and Dr. Ambedkar Member in charge of Labour in succession to Sir Feroz Khan Noon. Sir H. P. Mody remained as the Supply Member and Mr. M. S. Aney as the Member in charge of Indians Overseas. This completed the list of non-Muslim Members which included, for the first time, one belonging to the Sikh Community and another belonging to a Scheduled Caste.

Khan Bahadur Sir Mohammad Usman was appointed Member in charge of Posts and Air and Sir Feroz Khan Noon Member for Defence. Sir Sultan Ahmed remained as the Law Member. This completed the list of Muslim Members.

This expansion of the Executive Council was considered by Mr. Savarkar, President of the Hindu Mahasabha, to be a step forward in the direction of constitutional progress. Sir Tej Bahadur Sapru, however, said that, though it raised the number of Indians, it did not really introduce any change in the political and institutional character of the Council or its powers. According to him, it was only the continuation of the policy enunciated in the declaration of 8th August, 1940.[2] As a matter of fact, it did not mean much. The Indian Members were not nominees of any political party or group.

To satisfy Indian opinions, another measure was adopted. Along with the expansion of the Executive Council, two Indians

were taken on to the War Cabinet in England. One of them was Sir A. Ramaswamy Mudaliar (already referred to) and the other was H. H. the Jam Sahib of Nawanagar.[3] Needless to say, these men were nominees of the Government and not chosen representatives of the people.

When Parliament met on 10th September, 1942, Mr. Churchill made a statement. He said that "the broad principles of the declaration made by His Majesty's Government which formed the basis of the Mission of the Lord Privy Seal to India must be taken as representing the settled policy of the British Crown and Parliament." He added that, as the Congress was not the sole representative organisation of Indians because there were other sections—the Muslims, the Depressed Classes (i.e., the Scheduled Castes), the Princes, besides many Hindus, Sikhs and Christians—in India, who did not approve of the Congress policy, "no comprehension of the Indian problem or the relations between Britain and India is possible without the recognition of these basic data."[4]

In the meantime, Mr. Rajagopalachari, a prominent Congress leader and ex-Chief Minister, Madras, had been inclining towards accepting the principle of territorial self-determination if only to win over Mr. Jinnah to make a united front against the British Government. He held a meeting of the members of the Congress Parliamentary Party of the Madras Legislature and "rushed through it two resolutions : one in favour of conceding Pakistan and the other in favour of re-forming Congress Ministry in Madras."[5] The first of these resolutions was moved by him at the meeting of the A. I. C. C. at Allahabad (May, 1942), but there it was defeated.[6] The second resolution was tabled but withdrawn.[7] He resigned from the Congress in order to be free to carry on his campaign for converting the Congress.[8]

The Muslim League and the Hindu Mahasabha were trying to gain position for themselves. When the A.I.C.C. passed the resolution sanctioning the starting of a mass struggle (8th August, 1942), Mr. Jinnah regretted the situation.[9] On 16th

August, 1942, in a special interview in Bombay, he even expressed the view that the Muslim League would join in a Provisional war-time Government, if it had an equal voice with the Hindus and an assurance of Pakistan after the war. The Muslim League Working Committee endorsed the view of Mr. Jinnah on 20th August.[10] Thus, while Gandhiji and the leaders of the Congress were kept in detention and there were wide-spread disturbances in the country, and the Government was pursuing a policy of repression, Mr. Jinnah was contemplating a Provisional Government. Similarly, Mr. Savarkar, President of the Hindu Mahasabha, issued a statement (4th September, 1942), instructing the Hindu Mahasabhaites to stick to their posts, whatever they might be.[11]

The general policy of the Government was to suppress the disturbances in the country and also to detain the Congress leaders until they gave a definite assurance and guarantee of a different line of conduct. The Government's view was that the Congress was responsible for the revolutionary activities jeopardising the defence of India. It may, however, be pointed out that, in his letter to the Secretary, Government of India, dated 23rd September, 1942, Gandhiji characterised the acts of sabotage and violence that followed his arrest as acts of "deplorable destruction."[12] But, in the same letter, he made the Government responsible for this state of affairs. In a letter to the Viceroy, dated 29th January, 1943, Gandhiji repeated the view that the wide-spread disturbances were due to the Government's action in arresting the principal Congress leaders. But the Government blamed Gandhiji and, for the matter of that, the Congress resolution of 8th August, 1942. Added to this state of affairs, were the privations of the poor millions due to India-wide scarcity which, according to Gandhiji, could have been mitigated, if there was a *bona fide* National Government responsible to a popularly elected Assembly. Gandhiji now contemplated a fast in order to soothe his pain.[13] Just a few days before he began his fast, he received a letter from Lord Linlithgow which reads as follows :—"You may rest assured

that the charges against the Congress will have to be met sooner or later, and it will then be for you and your colleagues to clear yourselves before the world if you can. And if, in the meanwhile you yourself, by any action such as you now appear to be contemplating, attempt to find an easy way out, the judgment will go against you by default."[14] Gandhiji commenced his fast on 10th February, 1943, and ended it on 3rd March. During his fast, the Government was pressed for releasing Gandhiji. But it paid no heed to the matter. On 17th February, Sir H. P. Mody, Mr. Aney and Mr. Sarkar resigned from the Executive Council of the Governor-General,[15] as a protest against the refusal of the Government to release Gandhiji. On 9th and 10th March, there was a Leaders' Conference at Bombay. The Conference issued a statement, signed, among others, by Sir Tej Bahadur Sapru, Dr. M. R. Jayakar, Mr. Bhulabhai Desai and Mr. C. Rajagopalachari. In that statement, the leaders said that it was high time for both the Government and the Congress to reconsider their policy. They were convinced that, if Gandhiji was released, he could do his best to give guidance and assistance in the solution of the deadlock. They, therefore, desired that their representatives be permitted by the Viceroy to see Gandhiji. A deputation waited on the Governor-General who, however, flatly refused to allow them to contact Gandhiji or the Congress leaders because, he held, there had been no "change of heart" on their part.[16]

While the deadlock was allowed to continue, the 'Pakistan Day' was observed on 23rd March, 1943, by the Muslim League.[17] Mr. Jinnah sent a message to the Muslim population of India stating that the scheme of Pakistan was the final "national" goal of Muslim India. Mr. Jinnah's statement found an echo in the League resolution adopted on 26th April.[18]

On 2nd May, 1943, to the Governor-General's Executive Council were appointed Sir Azizul Huq, Dr. N. B. Khare and Sir Ashoka Kumar Ray, consequent on the resignation of the

three Members.[19] Of these, the first was a Muslim while the last two were Hindus.[20]

On 30th March, 1943, the House of Commons approved the continuance in force, for a further period of twelve months, of the Proclamations issued under Section 93 of the Government of India Act, 1935, in the six Indian Provinces (Madras, Bombay, the United Provinces, the Central Provinces and Berar, Bihar and the N.W.F.P.).[21] The Governor-General's term had already been extended (on 7th December, 1942) by six months until October, 1943.[22] On 25th May, 1943, the Governor-General extended the life of the Council of State and of the Legislative Assembly for a further period of one year from 1st October, 1943.[23]

While there was no constitutional progress during the period under review, the deadlock being continued, there were some attempts at the formation of Ministries in all the Provinces. It led to a sort of "combative co-operation"[24] between the Hindu Mahasabha and the Muslim League. Mr. Jinnah had already strengthened his demand for Pakistan and was also speaking about the League's joining in a Provisional Government at the Centre. On the other hand, Mr. Savarkar, with his anti-Pakistan views, issued instructions on 9th June, 1943, for the formation of Ministries in the Provinces.[25] He said that in the Hindu-minority Provinces, whenever a Ministry was going to be formed, the Hindu Mahasabha should try to capture as many seats as possible in the Ministry in order to safeguard the interests of the Hindu minority. In the formation of such Ministries, the Hindu Sabhaites should publicly oppose the attempt on the part of the Muslim ministers to support Pakistan. He held that the presence of Hindu ministers or Hindu Sabhaites would make coalition Ministries. Mr. Savarkar also urged that in the Hindu-majority Provinces Hindu Sabhaites and Hindus in general should take the lead in the formation of Ministries though the Muslim League or other Muslims should be invited to join the Ministries. His view was that their number, however, must be

proportionate to their numerical strength. He desired that the Chief Minister in a Hindu-majority Province should always be a Hindu. Though Mr. Savarkar was so earnest about the numerical strength of the Hindus in the Ministries, he did not ask for assurances like those which the Congress had asked for when it first assumed office in 1937.[26] The Muslim League also had not demanded assurances. The principle of joint responsibility was not insisted upon.

Attempts were made to set up Ministries in the U.P., Bihar, C. P., Madras and Bombay but they failed. Neutral opinion had practically accepted the Congress view. Those Congressmen who were outside the prison bars or detention camps were asked to act jointly and not individually. In the middle of June, 1944, the Bihar M.L.A.'s met but declined to form any Ministry. In C.P. also, the attempt failed because it was impossible to form any alliance between the Muslim League and the non-party Muslims. The League also would not agree to a coalition in which the Congress and the Hindu Mahasabha were not represented. An attempt was made to restore Congress Ministry in Madras in 1944 but it failed. The attempts to form Ministries in the U.P. and Bombay were not serious.[27]

When many Congress members of the Assembly were in jail, a minority coalition Ministry was formed on 24th November, 1941, in Orissa with the Maharaja of Parlakimidi as the Chief Minister.[28] This Ministry resigned on 21st June, 1944.[29]

In the other Provinces (Bengal, Sind, N.W.F.P., Punjab and Assam), Ministries were based on coalitions of parties and groups generally dominated by the Muslim League.

The Ministries in those Provinces where normal constitutional provisions were working were, in practice, functioning primarily at the will and pleasure of the Governors.

In Bengal,. the Governor's relation with the ministers was not cordial. On 21st November, 1942, Dr. S. P. Mukherji resigned from the Council of Ministers on the ground that the Governor interfered too much in the details of adminis-

tration.[30] Then, on 29th March, 1943, Mr. Fazlul Huq, the Chief Minister, was forced to resign.[31] Of course, Mr. Amery told the House of Commons that "the resignation was not compelled by the Governor."[32] But the procedure adopted by the Governor for inducing Mr. Huq to resign was not quite normal. At the opening meeting of the Monsoon session of the Bengal Legislative Assembly, a statement was made by Mr. Fazlul Huq regarding his resignation. He accused the Governor of partisanship and violation of the Instrument of Instructions.[33] On the resignation of Mr. Huq, Section 93 of the Government of India Act, 1935, was enforced in Bengal from 31st March, 1943. On 24th April, a new Ministry under Khwaja Sir Nazimuddin was formed and the Proclamation was withdrawn.[34] The new Ministry consisted of thirteen members, of whom seven including the Chief Minister belonged to the Muslim League, three were Caste Hindus and three representatives of the Scheduled Castes.[35] Though the Governor made Mr. Huq resign his Chief Ministership in spite of his majority, the new Chief Minister remained in office with the support of the Governor and the Europeans.[36]

In Sind, Mr. Allah Baksh, the Chief Minister, was removed from office on 10th October, 1942, as he no longer possessed the Governor's confidence. Having removed him, the Governor invited Sir Ghulum Hussain Hidayatullah, Home Minister, to form a Cabinet.[37] He accepted the invitation. Sir Ghulum's was a coalition Ministry. On 13th July, 1943, the Hidayatullah Ministry suffered a defeat in the Sind Legislative Assembly but Sir Ghulum did not resign. He was reprimanded by Mr. Jinnah for having taken on his Ministry a non-League Muslim against the League policy of not allowing a coalition Ministry with non-League Muslims. Sir Ghulum resigned and then reconstructed his Ministry without the non-League Muslim.[38]

In the N.W.F.P., a League Ministry was formed on 25th May, 1943.[39] In March, 1945, this Ministry suffered a defeat and resigned. Then, on Gandhiji's instructions, the Leader

of the Congress Party in the Provincial Legislature took office.[40] It was in the N.W.F.P. that the Congress accepted office during the period of the deadlock.

In the Punjab, a Unionist Ministry was in office. One of the Unionist ministers was dismissed by the Governor. On the dismissal of the minister, Mr. Jinnah raised the question whether the Governor had the right to dismiss a single individual minister belonging to his Council of Ministers. He inquired if the Governor had followed the Instrument of Instructions which enjoined him to foster a sense of collective responsibility among his ministers. He also liked to know what the responsibility of the Chief Minister in this respect was.[41]

In Assam, the conventions sought to be established by the Congress Government were ignored after the Congress had left office.

CHAPTER IX

THE SIMLA CONFERENCE

On the expiry of the term of Lord Linlithgow, Lord Wavell was appointed Governor-General. He was sworn in on 20th October, 1943.[1] He met the Governors at New Delhi and then went round the Provincial capitals.[2]

About this time, on 4th November, 1943, a peer, Lord Strabolgi, sought to introduce in the House of Lords a Bill to extend the Statute of Westminster, 1931, to India. The motion for the very first reading of the Bill was opposed by Viscount Cranbourne, Secretary of State for Dominion Affairs. His opposition was based on the ground that an "individual peer" should not try to amend the Statute of Westminster "by means of a Private Member's Bill." He said that, if such an amending Bill was to be introduced, it ought to be introduced by the "Government after previous consultation with the Governments of the Dominions." Lord Strabolgi replied that, since the policy of the British Government was "to confer Dominion Status upon India," and since India was, "ceremonially and in certain official matters," being treated as a Dominion, he had thought it desirable to introduce the Bill with a view to doing something for removing the "causes of the impasse in India." Lord Strabolgi's motion for the first reading of the Bill was negatived[3] and the matter ended there.

In India, however, public opinion was getting very much exasperated because the new Governor-General had been doing nothing to ease the political situation. Perhaps the Congress leaders were being approached by other routes. It was reported in the British Press that Chiang Kai-shek had written two letters to Pandit Nehru and Gandhiji to co-operate with China against Japan.[4] It was in such circumstances that the

Governor-General addressed the annual meeting of the Associated Chambers of Commerce at Calcutta on 20th December, 1943.[5] His speech was very much criticised by the Indian Press as he had clearly said that he did not like immediately to hold discussions on the constitutional problem.[6] In his address to the Indian Legislature on 17th February, 1944, he said that, for the time being, he was to concentrate on winning the war. He announced further that, unless some other form of Government could be established with general consent, the then existing Government of India, 'mainly an Indian Government,' would continue. He, however, spoke in favour of the Cripps Proposal. According to him, it was a bold and generous offer and gave India a great opportunity to progress towards the solution of her problem. Though it had been rejected by the Indian parties, it was still open so far as the British Government was concerned. The British Government's policy regarding India was that India should have full control of her destiny among the nations of the world. On the main problem of Indian unity, he said : "You cannot alter geography. From the point of view of defence, of relations with the outside world, of many internal and external problems, India is a natural unit. What arrangements you decide to make for the two great communities and certain other important minorities, as well as the Indian States, to live within that unit.....is for Indians to make." The British Government's primary task was to win the war and that as speedily as possible. The second task was to prepare for the future, economically and politically. The British Government could not settle the future of this country without the full co-operation of the British and Indian peoples and without the co-operation, within the Indian people, of Hindus, Muslims and other minority groups and of the Indian States. As regards the release of the leaders held in detention, the Governor-General said, "I see no reason to release those responsible for the declaration of August 8, 1942, until I am convinced that the policy of non-co-operation and even of obstruction has been withdrawn, not in sackcloth and

ashes—that helps no one—but in recognition of a mistaken and unprofitable policy."[7]

Mr. Jinnah was annoyed because the Governor-General had referred to the geographical unity of India. He said that, if the British Government were sincere in its desire for peace in India, it should immediately frame a new constitution dividing India into two sovereign states—Pakistan for Muslims and Hindusthan for Hindus. Mr. Jinnah thought that, in that event, there would be no civil war in the transitional period during which time British power in respect of defence and foreign affairs would remain paramount, and that ultimately the two Indian "nations" would enter into treaties with Britain.[8]

There was a Non-Party Conference on 7th and 8th April, 1944, in Lucknow under the Presidentship of Sir Tej Bahadur Sapru. Resolutions of the Conference urged for the establishment of a National Government, representative of all parties, at the Centre and coalition or, as far as possible, representative Ministries in the Provinces, fresh elections to bring the Legislatures more in touch with public opinion and the unconditional release of the Congress leaders to enable them to effect a communal settlement.[9]

About this time, on 6th May, Gandhiji was released on medical grounds.[10]

The release of Gandhiji had nothing to do with the general policy of the Government. Nor was there any reason at that time to believe that Gandhiji would withdraw the August resolution. He clearly expressed himself against any such thing in his letter to Dr. Jayakar, dated 20th May, 1944.[11]

After some time, however, Gandhiji tried to arrive at a compromise with the Government and other parties. He wrote a letter to Lord Wavell on 17th June asking for an interview with the latter, so that he could convince him of the necessity of his meeting the members of the Congress Working Committee. Lord Wavell refused to grant him permission and suggested that Gandhiji might write to him, if he had anything constructive to suggest.[12]

On 11th July, in an interview to Mr. Gelder, the special correspondent of the News Chronicle, Gandhiji spoke out his mind. He said that he could do nothing without consulting the Working Committee. If he met the Viceroy, he would tell him that he had no intention of embarrassing the British Government. He would not start Civil Disobedience again—in any case, he would not take the country back to 1942. He would be satisfied with a National Government in full control of the civil administration. If such a National Government were formed, he would advise the Congress to participate in it.

Gandhiji explained that this would involve a declaration, then and there, of Indian independence after the war and the establishment of a new National Government. The Viceroy would remain and have complete control over British and Indian Armies. In other affairs, he would be like the British Monarch guided by responsible ministers. Popular Governments would then be automatically restored in the Provinces. With the Defence portfolio in its hands, the National Government would be genuinely interested in the country's defence.[13]

When Gandhiji's statement to Mr. Gelder was published in the Press, his proposal evoked some criticism among the nationalist circles. The critics said that the proposal was in conflict with the August resolution of the Congress. In his reply (14th July, 1944) to the critics, Gandhiji said that he saw no conflict because, even now, he demanded that the British Government should recognise full independence of India, though this mignt be qualified during the pendencey of the war.[14]

Whatever that might be, Gandhiji, having failed to meet the Viceroy, wanted to have his proposal conveyed to the Viceroy and also to have facilities for pursuing the matter further. In his letter, dated 15th July, Gandhiji wrote to Lord Wavell: "You have no doubt seen the authentic copies, now published in the Indian Press, of the statements given by me to Mr. Gelder of the News Chronicle. As I have said to the Press, they

were meant primarily to be shown to you. But Mr. Gelder, no doubt with the best of motives, gave the interview premature publicity. I am sorry. The publication will nevertheless be a blessing in disguise, if the interview enables you to grant at least one of my requests contained in my letter of 17th June."[15]

In reply to this letter, Lord Wavell said on 22nd July that he had seen Gandhiji's statement and that, if Gandhiji submitted to him a "constructive policy," he would consider it.[16]

In his letter of 27th July, Gandhiji wrote to Lord Wavell that he was prepared to advise the Working Committee that, in view of the changed circumstances, mass Civil Disobedience, as contemplated in the resolution of August, 1942, could not be offered, and that full co-operation in the war efforts should be offered by the Congress if a declaration of Indian independence was made and a National Government, responsible to the Central Assembly, was formed, subject to the proviso that, during the pendency of the war, the military operations should continue as then without any financial burden on India.[17] But, in spite of Gandhiji's intention to advise the Working Committee to withdraw the Bombay resolution if Britain declared India independent, the British Government rejected his suggestions.

In his reply to the debate on the Indian question in the House of Commons on 28th July, 1944, Mr. Amery said, "They (Gandhiji's proposals) are....all bound up with and attendant upon one central demand on which he (Gandhiji) does not leave any room for ambiguity, that is, the demand for the immediate recognition of India's independence under a provisional Government in which the only powers reserved for the Viceroy are those which deal with the control of active military operations. All the reserve powers ....are to disappear. Well, that is after all just the demand upon which the negotiations with the Congress broke down two years ago.....In this respect at any rate there has been no real advance. Indeed, Mr. Gandhi now adds the

further stipulation that India is to bear no part of the cost of her own defence. So long as that is the basis of his proposals, they obviously do not form even a starting point for profitable discussion, either with Lord Wavell or with the interned Congress Party leaders. They are in no sense a response to the Viceroy's invitation to Mr. Gandhi to produce constructive proposals."[18]

The Governor-General also adopted a stiff attitude. In his reply to Gandhiji's letter, Lord Wavell wrote on 15th August, that his proposals were unacceptable as a basis for discussion in view of Mr. Amery's statement in the House of Commons. The British Government rejected them just for the very reasons why they had rejected the proposals made by Maulana Azad to Sir Stafford Cripps in April, 1942. In fact, the two were similar. The Viceroy then referred to the offer of the British Government in 1942 and said that that offer was one of unqualified freedom after the war, subject to the framing of a constitution agreed to by the main elements of Indian national life and the negotiation of necessary treaty arrangements with the British Government. He found it impossible to bring about any change in the constitution by means of a National Government, responsible to the Central Assembly. Furthermore, until the war was over and the new constitution was in operation, the British Government and the Governor-General must retain their existing responsibility over the whole field—responsibility for defence and military operations could not be divided from the other responsibilities of the Government. So far as the question of India's share of the cost of the war was concerned, this was essentially a matter for settlement between the British Government on the one hand and the Government of India on the other.

Lord Wavell concluded by saying that, in these circumstances, no useful purpose would be served by discussion on the basis suggested by Gandhiji. If, however, "the leaders of the Hindus, the Muslims and other minorities were willing

to co-operate in a transitional Government, established and working within the present constitution,.....good progress might be made." "For such a transitional Government to succeed," added Lord Wavell, "there must, before it is formed, be agreement in principle between Hindus, Muslims and other important elements as to the method by which the new constitution should be framed. The agreement is a matter for Indians themselves."[19]

The attitude of Lord Wavell was subjected to criticism in the Indian Press. Dr. Sitaramayya comments on the stand taken by Lord Wavell in the following manner :—"There is little doubt..that he (Lord Wavell) wanted to short-circuit the issue of National Government and pass on to the formulation of a Constitution."[20]

Having failed in his attempts to arrive at a compromise with the British Government, Gandhiji now tried to come to terms with Mr. Jinnah to settle the communal question.

Gandhiji met Mr. Jinnah in September, 1944,[21] to discuss what is commonly known as the Rajaji formula. In fact, the process had started earlier. During his detention at the Palace of the Aga Khan, Gandhiji had been considering a formula of agreement on the basis of the principle of self-determination. This formula, though commonly known as the Rajaji formula, is said to have been originally proposed by Mr. Jinnah himself in September, 1942, and given to Mr. Rajagopalachari by an ex-General Secretary of the Hindu Mahasabha in December, 1942. Mr. Rajagopalachari had shown it to Gandhiji during the period of his fast in 1943 and got his approval. On 8th April, 1944, Mr. Rajagopalachari made some proposals based on the formula to Mr. Jinnah. Curiously enough, Mr. Jinnah refused to signify his immediate acceptance. He said that he was willing to place the matter before the Working Committee of the Muslim League but that he could not personally take any responsibility for accepting it or rejecting

it. As Mr. Rajagopalachari thought that it was futile to proceed further, negotiations were closed.[22]

The scheme embodying the formula is quoted below:—

"BASIS FOR TERMS OF A SETTLEMENT BETWEEN THE INDIAN NATIONAL CONGRESS AND THE ALL-INDIA MUSLIM LEAGUE TO WHICH MR. GANDHI AND MR. JINNAH AGREE AND WHICH THEY WILL ENDEAVOUR RESPECTIVELY TO GET THE CONGRESS AND THE LEAGUE TO APPROVE.

"Subject to the terms set out below as regards the Constitution for a free India, the Muslim League endorses the demand for independence and will co-operate with the Congress in the formation of a provisional interim Government for the transitional period.

"After the termination of the war, a Commission shall be appointed for demarcating contiguous districts in the north-west and east of India, wherein the Muslim population is in absolute majority. In the areas thus demarcated, a plebiscite of all the inhabitants, held on the basis of adult suffrage or other practicable franchise, shall ultimately decide the issue of separation from Hindusthan. If the majority decides in favour of forming a sovereign state separate from Hindusthan, such a decision shall be given effect to, without prejudice to the right of districts on the border to choose to join either state.

"It will be open to all parties to advocate their points of view before the plebiscite is held.

"In the event of separation, mutual agreements shall be entered for safeguarding defence, commerce and communications and for other essential purposes.

'Any transfer of population shall only be on an absolutely voluntary basis.

"These terms shall be binding only in case of transfer by Britain of full power and responsibility for the governance of India."[23]

The formula accepted the substance of the Lahore resolution of the Muslim League and gave it a form. In respect of the

possibility of partition, it also bore some resemblance to the Cripps Proposal. But it had three peculiar features which distinguished it from the Lahore resolution and also the plan embodied in the Cripps Proposal.

In the Rajaji formula there was to be a Commission to demarcate Muslim-majority areas on the basis of districts and not Provinces or Zones. Neither in the Lahore resolution nor in the Cripps Proposal was there any provision for such an arrangement. The Lahore resolution demanded the grouping of geographically contiguous Muslim-majority areas in the north-eastern and the north-western Zones into independent states. According to the Cripps Proposal, what could possibly remain out of the Indian Union was a Province as such. Morever, there was no reference specifically to the Muslims.

Secondly, the basic principle of the Rajaji formula was that the issue of separation would be decided by practically all the adults of the areas. There was provision for a plebiscite to be held of all the inhabitants of the contiguous Muslim-majority districts to decide the issue of partition. The plebiscite was, therefore, to be held in the first instance. In the Lahore resolution, there was no such provision. In the Cripps Proposal, the decision as to partition was to be taken by a resolution of the Legislative Assembly of the Province concerned. A plebiscite was there provided for as a last resort.

Thirdly, according to the Rajaji formula, in case the decision was in favour of partition, some sort of treaty arrangements between the two resulting states were to be entered into for safeguarding defence, commerce and communications and for other essential purposes. Neither the Lahore resolution nor the Cripps Proposal had provided for a treaty between the two states of the Indian sub-continent for safeguarding defence, commerce and communications.

The meeting between Gandhiji and Mr. Jinnah for discussing the Rajaji formula was fruitless. According to Gandhiji, the formula meant virtually a common Centre concerned

with defence, commerce, communications, etc. This interpretation was not acceptable to Mr. Jinnah who insisted on Gandhiji's agreeing to the two-nation theory and partition without any plebiscite of the whole population.[24]

While Gandhiji's efforts failed, some leading Congressmen were perhaps showing what Mr. Amery had demanded in 1942 —namely,"a change of heart."[25]

On 5th October, 1944, as Mr. Amery was stating in the House of Commons that he saw no reason for releasing the members of the Congress Working Committee, as those men had not responded to the Viceroy's invitation "to abandon their policy of non-co-operation and obstruction,"[26] Dr. Syed Mahmood, a member of the Working Committee, was, released on his dissociating himself from the August resolution.[27]

Again, when the Central Legislature met in November, the Congress Party attended it after four years.[28] The Congress Assembly Party had taken the decision without authority from the Congress.[29]

The presence of the Congress Party did not make any difference in the work of the Legislature. Lord Wavell asserted that the then existing Executive Council was a National Government, because there was a majority of Indians on it with eleven Indians out of a total of fifteen.[30] That the political situation was becoming unbearable and that there was the urgent need for ending Governor's rule under Section 93 in the Provinces were stressed by Sir Jagadish Prasad, an ex-Member of the Viceroy's Executive Council.[31] The Liberals, the Hindu Mahasabha, the Scheduled Castes, and the non-League Muslim Majlis—all were unanimous that the political deadlock must be ended.[32] The Non-Party Conference decided (November, 1944) to form a small committee to explore the possibility of a settlement.[33]

Some time after the Gandhi-Jinnah talks, the Viceroy told Mr. Bhulabhai Desai, the Leader of the Congress Party in the Legislative Assembly that he (the Viceroy) desired Mr. Desai

to make an attempt to end the political deadlock. "If a National Government were formed by the Congress and the Muslim League Parliamentary Parties he would welcome it." He expressed his readiness to go to the farthest end for meeting their view-point though, of course, the new Government, if formed, would work within the framework of the Government of India Act, 1935. Accordingly, Mr. Desai met Nawabzada Liaquat Ali Khan, the Deputy Leader of the Muslim League Party in the Legislative Assembly. Mr. Liaquat Ali Khan said that a Congress-League coalition was possible. Mr. Desai asked him to mention the matter to Mr. Jinnah.[34]

In the first week of January, 1945, Mr. Desai met Gandhiji at Sevagram and discussed the matter with him. Gandhiji asked Mr. Desai to obtain authority from the Congress Working Committee. Gandhiji, however, said that"if the Congress and the League" joined "hands in Parliamentary work," he "would like it."

As a result of the discussions between Mr. Desai and Mr. Liaquat Ali Khan and the "elucidations provided by Gandhiji from time to time," the following steps were proposed to be taken to end the political deadlock :—

"The Congress and the League would agree that they would join in forming an Interim Government in the Centre consisting of (a) equal numbers of persons nominated by the Congress and the League in the Central Legislature, (b) representatives of minorities, and (c) the Commander-in-Chief.

"While the Government would be formed and would function within the framework of the existing Government of India Act, it would be clearly understood between the Congress and the League that any measure not passed by the House should not be enforced or sought to be enforced by any of the powers of the Governor-General under the constitution. This would serve to eliminate in action the veto of the Governor-General and make the nominees responsible to the elected Legislature.

"The European member, if one had to be included, should be the choice of the Congress and the League.

"It should be agreed between the Congress and the League in advance that, if such Interim Government was formed, their first step would be to release the members of the Working Committee. A firm and clear commitment of the League in regard to this would be a preliminary proof of its *bona fides*.

"The next step would be to get the withdrawal of the Governor's rule in the Provinces and to form, as soon as possible, Provincial Governments on the lines of a coalition."

An agreement called the 'Bhulabhai-Liaquat Ali Pact' was made and "initialled copies of the same were exchanged between Bhulabhai Desai and Liaquat Ali on 11th January, 1945." Mr. Desai even communicated the matter to the Viceroy and asked him to take the necessary steps.

Gandhiji had insisted that before Mr. Desai committed himself to anything, Mr. Jinnah's approval of the agreement in view should be obtained. But Mr. Desai had been overzealous and Mr. Jinnah's approval was not there. A copy of the agreement was sent to Gandhiji. It bore the initials of both Mr. Desai and Mr. Liaquat Ali Khan. But Mr. Liaquat Ali later said that the copy which he had with him bore the initials of Mr. Desai only while the copy which Mr. Desai had taken from him bore his (Liaquat Ali Khan's) initials only. Mr. Liaquat Ali Khan denied that there was any pact. He said that those were "proposals" as "a basis for discussion," that those were his "personal" views, and that he had "had no occasion to consult Mr. Jinnah."

The so-called agreement, therefore, remained "still-born."[35] But the fact that a sort of parity between the Congress and the League was decided upon had far-reaching consequences.

While the political situation in India showed no sign of improvement, on 20th April, 1945, Mr. Amery moved, for the acceptance by the House of Commons, a resolution

regarding the continuance in force, for another twelve months, of the proclamations issued under Section 93 of the Government of India Act, 1935. In the course of his speech, he said : "The period of 12 months is, of course, not a minimum but a maximum period and at any time before the expiration of the 12 months if, in any of these Provinces, political leaders are prepared to come forward, ready to form a Ministry prepared to support the war, and give a reasonable assurance of stable support in the Legislature it would be the duty of the Governor to constitute such a Ministry. At the moment, in these particular Provinces there is no immediate sign of a desire to bring about that change."[36]

While, in India, there was no constitutional progress since the Cripps offer of 1942, the war in Europe suddenly ended on 7th May, 1945, and a general election in Britain was in the offing.[37]

About this time, Lord Wavell visited England for consultation. The Desai-Liaquat Ali talks were the only constructive suggestions placed in his hands before he left India. But, while he was away in London, the Sapru Committee, which had been constituted by the Non-Party Conference, cabled to him its proposals regarding an interim arrangement. Subsequently, its recommendations for interim as well as final arrangements were published.

For an interim arrangement, the Sapru Committee proposed coalition Governments in the Provinces and a National Government in place of the Executive Council at the Centre. As regards the final form of the constitution which, according to it, should be framed by an Indian Constituent Assembly, the Committee rejected the idea of Pakistan but proposed equal representation of Caste Hindus and Muslims in the Constituent Assembly as also in the Central Assembly, provided that the Muslims agreed to joint electorates with reservation of seats.[38]

These proposals were of little use, because they appealed neither to the Muslim League nor to the Hindus in general.

The result of Lord Wavell's consultation with the British Government was soon revealed. On 14th June, he broadcast to the people of India the proposals of the British Government to resolve the deadlock. Simultaneously, a statement was made by Mr. Amery in the House of Commons.[39]

Lord Wavell said, ".....My intention in this broadcast is to explain to you the proposals, the ideas underlying them, and the method by which I hope to put them into effect.

"This is not an attempt to obtain or impose a constitutional settlement. His Majesty's Government had hoped that the leaders of the Indian parties would agree amongst themselves on a settlement of the communal issue which is the main stumbling block ; but this hope has not been fulfilled.

"In the meantime, India has great opportunities to be taken and great problems to be solved, which require a common effort by the leading men of all parties. I therefore propose, with the full support of His Majesty's Government, to invite Indian leaders both of Central and Provincial politics to take counsel with me with a view to the formation of a new Executive Council more representative of organized political opinion. The proposed new Council would represent the main communities and would include equal proportions of Caste Hindus and Moslems. It would work, if formed, under the existing Constitution. But it would be an entirely Indian Council, except for the Viceroy and the Commander-in-Chief, who would retain his position as War Member. It is also proposed that the portfolio of External Affairs, which has hitherto been held by the Viceroy, should be placed in charge of an Indian Member of Council, so far as the interests of British India are concerned.

"A further step proposed by His Majesty's Government is the appointment of a British High Commissioner in India, as in the Dominions, to represent Great Britain's commercial and other such interests in India.

"Such a new Executive Council will, you realize, represent

a definite advance on the road to self-government. It will be almost entirely Indian, and the Finance and Home Members will for the first time be Indians, while an Indian will also be charged with the management of India's foreign affairs. Moreover, Members will now be selected by the Governor-General after consultation with political leaders, though their appointment will, of course, be subject to the approval of his Majesty the King Emperor.

"The Council will work within the framework of the present constitution ; and there can be no question of the Governor-General agreeing not to exercise his constitutional power of control ; but it will, of course, not be exercised unreasonably.

"I should make it clear that the formation of this interim Government will in no way prejudice the final constitutional settlement.

"The main tasks for this new Executive Council would be:—

"First, to prosecute the war against Japan with the utmost energy till Japan is utterly defeated.

"Secondly, to carry on the Government of British India, with all the manifold tasks of post-war development in front of it, until a new permanent constitution can be agreed upon and come into force.

"Thirdly , to consider, when the Members of the Government think it possible, the means by which such agreement can be achieved. The third task is most important. I want to make it quite clear that neither I nor His Majesty's Government lost sight of the need for a long-term solution and that the present proposals are intended to make a long-term solution easier.

"I have considered the best means of forming such a Council ; and have decided to invite the following to Viceregal Lodge to advise me :—

"Those now holding office as Premier in a Provincial

Government ; or, for Provinces now under Section 93 Government, those who last held the office of Premier.

"The Leader of the Congress Party and the Deputy Leader of the Muslim League in the Central Assembly and the leaders of the Congress Party and the Muslim League in the Council of State ; also the leaders of the Nationalist Party and the European Group in the Assembly.

"Mr. Gandhi and Mr. Jinnah as the recognised leaders of the two main political parties ; Rao Bahadur N. Shivaraj to represent the Scheduled classes and Master Tara Singh to represent the Sikhs.

"Invitations to these gentlemen are being handed to them today, and it is proposed to assemble the Conference on 25th June at Simla, which would be cooler than Delhi.....

"If the meeting is successful, I hope that we shall be able to agree on the formation of the new Executive Council at the Centre. I also hope that it will be possible for Ministries to reassume office and again undertake the tasks of government in the Provinces now administered under Section 93 of the Constitution Act and that these Ministries will be Coalitions.

"If the meeting should unfortunately fail, we must carry on as at present until the parties are ready to come together. The existing Executive Council, which has done such valuable work for India, will continue if other arrangements cannot be agreed.

... ...

"I should make it clear that these proposals affect British India only and do not make any alteration in the relations of the Princes with the Crown Representative.

"With the approval of His Majesty's Government and after consultation with my Council, orders have been given for the immediate release of the members of the Working Committee of the Congress who are still in detention. I propose to leave the final decision about the others still under detention as the

result of the 1942 disturbances to the new Central Government, if formed, and to the Provincial Governments.

"The appropriate time for fresh elections for the Central and Provincial Legislatures will be discussed at the Conference."[40]

The essence of the plan was, therefore, to reconstruct the Executive Council of the Governor-General. The desired change could be effected by an amendment to the Ninth Schedule to the Government of India Act, 1935. That Schedule contained a provisicn that not less than three members of the Executive Council must have had at least ten years' service under the Crown in India and also that one member must have been, for at least ten years, a lawyer of any of some specified categories. If the proposals of the British Government were accepted by the Indian parties, that provision was to be amended so as to dispense with these requirements.

A conference of representatives chosen by the Viceroy was to be convened with a view to obtaining from the leaders of the various parties a joint list, or, failing it, separate lists of worthy people to constitute a new Executive Council of the Viceroy. In the new Executive Council, all the departments except the department of War were proposed to be in Indian hands. The department of War was to remain in the exclusive charge of the Commander-in-Chief. On the proposed Executive Council there would be an equal number of Muslims and Caste Hindus, and business would be conducted in accordance with the Government of India Act (as per Ninth Schedule to the Government of India Act, 1935). Though the Governor-General's veto would not be abolished, it would not be used unreasonably. The Conference would also decide the proportions in which the parties should be represented and the method by which the panels of names would be submitted to the Governor-General to enable him to make his recommendations for appointment to the Executive Council. If the Conference were successful, a new Executive Council at the Centre and Provincial Ministries in Section 93 Provinces would assume office and the latter would be coalitions.

The members of the Congress Working Committee were released[41] and there were high hopes in all circles that, after all these years, the deadlock was going to be ended.

The Conference began in Simla on 25th June, 1945.[42] Unfortunately, a joint list became impossible. Each party or group was then asked to submit separately a list from which the Governor-General would prepare his own list. All the lists but two (i.e., except those of the European Group, which decided not to send any list, and also the Muslim League) had been submitted[43] when the Conference adjourned till 14th July.

The Congress had suggested a Council of fifteen Members besides the C-in-C. It had submitted a list of fifteen names which included those of five Caste Hindus and five Muslims out of whom three were Leaguers, one Congressman and one independent. The Muslim League had been left free to suggest any changes with respect to its three representatives mentioned in the Congress list. Mr. Jinnah had not sent any list. He had claimed that the Muslim League alone had the right to choose Muslim Members of the Council. This claim was weak in view of the fact that Malik Khizr Hyat Khan of the Unionist Party of the Punjab produced his own list and the Executives of such purely Muslim organisations as the Arhars, the Nationalists, the Momins, the Shias and the Jamiat-ul-Ulema had appointed Moulavi Hussain Ahmed Madani as their common representative to negotiate with the Congress and the Government in the matter of the nomination of their representatives.[44] "Lord Wavell was in a quandary. He did not mind leaving out a Congress Muslim but he could not exclude Muslims like Khizr Hyat Khan who belonged neither to the League nor to the Congress. He wanted to take 4 nominees of the League and one of the Unionist Party of the Punjab. But even this did not please Mr. Jinnah."[45] So, when Lord Wavell made his own selection and showed Mr. Jinnah a part of it containing the names of five Muslims out of whom one was a non-Leaguer belonging to the Unionist Party of the Punjab and four belonging to the Muslim

League, he said he could not agree. His objections were based on two grounds. In the first place, in the proposed Council of fifteen Members, the Muslims would have only five seats. So, they would be reduced to a minority of one-third. Mr. Jinnah claimed a greater share. But, the question of the proportion of Muslim Members in the Council was not of so much importance as the question of the status of the Muslim League. He made the irrevocable claim that the Muslim League alone was the representative organisation of the Muslims of India.[46] Lord Wavell could not accept either of the claims. So, on 14th July, 1945, the Viceroy wound up the Conference by declaring a failure of the talks.[47]

The responsibility for the failure lies, therefore, partly on Lord Wavell and partly on Mr. Jinnah, though Lord Wavell was courteous enough to lay all the blame on himself.[47] To Mr. Jinnah the Wavell plan was a "snare". "There was the combination consisting of Gandhi Hindu Congress who stand for India's Hindu National Independence as one India, and the latest exponent of geographical unity, Lord Wavell, and Glancy-Khizr, who are bent upon creating disputes among the Mussalmans in the Punjab. We are sought to be pushed into this arrangement, by which, if we had agreed to, as proposed by Lord Wavell, we should have signed our death warrant," said he in the course of a statement at a Press conference. He continued to say : "In the proposed Executive we would be reduced to a minority of one-third. All the other minorities such as the Scheduled Castes, Sikhs and Christians have the same goal as the Congress." He added, "Even about the five members of the Muslim bloc which were allotted to us communitywise which is the essence of the Wavell proposals, we were told that the Muslim League was not entitled to nominate all the Muslim representatives as our chosen spokesmen ; and there were two claimants—the Congress claimed two, and Glancy-Khizr on behalf of the Punjab claimed one. This move on the part of these two went at the very root and the very existence of the Muslim League regarding its position,

character and status. But, finally, we broke as Lord Wavell insisted upon his having one non-Leaguer nominee of Malik Khizr Hyat, representing the Punjab Muslims."[46]

The failure of the talks strengthened the position of Mr. Jinnah and the Muslim League. In fact, the result of the elections of 1945-46 clearly indicated the growing strength of the Muslim League. It captured nearly all the Muslim seats in the Provincial Legislatures, though as yet it could not control either the Punjab or the N.W.F.P.

CHAPTER X

THE CABINET MISSION PLAN

The failure of the Simla talks naturally added to the sense of frustration in India. But, there was a sense of relief—there were also some fresh hopes—when the Labour Party, widely believed to be sympathetic to Indian nationalist aspirations, came to power after the general elections in Britain.

Lord Wavell made a new move. He called a Governors' Conference at New Delhi on 1st August, 1945, for the purpose of reviewing the Indian situation and deciding on a course of action.[1] To be precise, the object was to explore the possibilities of (1) the restoration of Provincial autonomy in Section 93 Provinces and (2) the holding of general elections for the Provinces and the Centre.

Within a few days, Japan also surrendered unconditionally (August, 1945). Now, the war having finally ended, the British Government could easily put its mind to solving the Indian question.

On 20th August, the British Government invited Lord Wavell to London for consultation. On 21st August, after a special emergency meeting of the Executive Council, the Viceroy's decision to hold general elections and to go to London was announced.[2]

The statement which the Governor-General was authorised by the British Government to make on 19th September, 1945, came as a sort of relief to many, inasmuch as it declared the policy of the British Government to be the early realisation of self-government in India and enumerated the positive steps to be taken to that end.

He expressed the hope that, after the elections to the Central

and Provincial Legislatures in the cold weather of 1945-46, ministerial responsibility would be accepted by political leaders in all the Provinces.

As regards the positive steps to be taken for the realisation of self-government in India, he said that it was the intention of the British Government to convene a constitution-making body and that, as a preliminary step, he would hold discussions with the representatives of Legislative Assemblies and with the Princes with a view to securing the widest measure of agreement as to the method of framing a constitution. Further, the British Government was proceeding to the consideration of the content of the treaty which would have to be concluded between Great Britain and India. Finally, as soon as the results of the Provincial elections were published, he would take steps to bring into being an Executive Council (Central) which would have the support of the main Indian parties.[3]

In a speech broadcast on 19th September, 1945, Prime Minister Attlee reiterated the announcement of the Governor-General. He said that the British Government was giving immediate consideration to the contents of a treaty with the Indian constitution-making body, as envisaged in the declaration of policy towards India made in 1942.[4]

About this time, the trials of the 'Indian National Army' were held in the historic Red Fort in Delhi. This Army had been organised by Mr. Subhas Chandra Bose mainly from among Indian war prisoners held by the Japanese in East Asia. After the surrender of Japan in August, 1945, most of the I.N.A. soldiers, fallen into British hands, were sent back to India. They were charged with the crime of waging war against the King and of brutality in inducing their fellow prisoners to join their ranks. A military tribunal was set up for their trial. The Congress set up a committee for the defence of the accused. Facts relating to the I.N.A.—particularly, the formation of a joint army of Hindus, Muslims and other communities for a

war of independence, incidents showing the heroic exploits and patriotic self-sacrifice and idealistic *camaraderie* of the soldiers of freedom—fired the imagination of the people. Later on, the Muslim League thought it prudent to defend those of the accused who were Muslims. The Congress defended the accused withont discrimination. So far as the people were concerned, they also agitated for the release of all I.N.A. prisoners—Hindu, Muslim, Sikh or Christian. To them, all were national heroes. The I.N.A. became the symbol of popular national consciousness against British authority. The Government took alarm. It considered further delay dangerous.

On 4th December, 1945, Lord Pethick-Lawrence, Secretary of State for India, announced in the House of Lords that the British Government was anxious to remove all misunderstanding in India regarding British policy and was, therefore, arranging for a Parliamentary Delegation to go to India under the auspices of the Empire Parliamentary Delegation. He continued to say that the Parliamentary Delegation visiting India would meet leading Indian political leaders and learn their views at first hand and would also convey to the Indian people the sincere wish of the British people that India should speedily attain its full freedom in the British Commonwealth. He made it clear, however,, that the Delegation would have no authority to commit Britain to any policy.[5]

Central and Provincial elections were held in the winter of 1945-46 and popular Ministries were formed in the Provinces by April, 1946. Congress Ministries were formed in Assam, Bihar, U.P., N.W.F.P., Bombay, Madras, C.P. and Orissa. Though the League had captured an overwhelming majority of the Muslim seats taken together, yet it could form Ministries only in two Provinces—Sind and Bengal. In the Punjab, though the Muslim League was the largest single party, it could not form a Government. A coalition Government, excluding the Muslim

League, was formed there under Malik Khizr Hyat Khan, leader of the Unionist Party.[6]

Meanwhile, other things were happening and momentous steps were being taken.

The Parliamentary Delegation visited India in January, 1946.[7] Shortly after its return to Britain, an incident took place in India, which showed that the country was in high tension. On 18th February, 1946, the ratings of the Signal School, Bombay, began an agitation in protest against their English Commnader's condemnation of their national character. The revolt took an alarming nature and had to be subdued with great difficulty. This revolt had some reaction on the Army and the Air Force. This just showed that the nationalist sentiment was spreading through the armed forces. That meant danger for the British authorities.

On 19th February, the day following the outbreak of the revolt, an official announcement was made in both Houses of Parliament[8] to the effect that the British Government was sending out to India a special mission of Cabinet ministers consisting of the Secretary of State for India (Lord Pethick-Lawrence), the President of the Board of Trade (Sir Stafford Cripps), and the First Lord of the Admiralty (Mr. A. V. Alexander). The Cabinet Mission was to seek, in association with the Viceroy, an agreement with Indian leaders on the principles and procedure relating to the constitutional issue. It was also to help India to set up immediately the machinery for deciding the form of government the Indians wanted. The British Government was resolved that the machinery should be set up.

Within the terms laid down by the Cabinet decisions, these ministers would be free to act. On major matters of policy, they were to refer back for Cabinet decision. Anything arising out of these discussions would be the subject of legislation and would have to come before Parliament.

In a debate on the statement of 19th February, 1946, held on 15th March, 1946, Prime Minister Attlee explained the

British Government's policy of sending out the Cabinet Mission. He said that the British Government recognised India's desire for freedom. He pointed to the fact that the war had quickened the pace of the nationalist movement in India. The whole of Asia was resurgent. What happened in India affected the rest of Asia. In India, the nationalist idea had spread right through all sections of the people including some soldiers who had given such wonderful service in the war. That was why he did not want to lay undue stress on the differences between the Indians. He repeated that the Cabinet Mission's objective was to help India to attain freedom as speedily and fully as possible and, to that end, to set up the machinery for drawing up the constitution of India. He made a remarkable departure from the previous British policy of over-emphasising, for thwarting the claims of the majority, the demands of the minorities. He said, "I am well aware, when I speak of India, that I speak of a country containing a congeries of races, religions and languages, and I know well all the difficulties thereby created. But those difficulties can only be overcome by Indians. We are very mindful of the rights of minorities and minorities should be able to live free from fear. On the other hand, we cannot allow a minority to place a veto on the advance of the majority."[9]

Mr. Attlee added that, in the changed circumstances when Indians would be framing their own constitution, the then existing administrative arrangements would be improper. He mentioned that, for that reason, the British Government desired to set up an Interim Government in India. The Viceroy's Executive Council, in acting within the framework of the Ninth Schedule to the Government of India Act, 1935, would, he said, be incongruous. On this ground, he continued, the British Government was taking through Parliament a Bill[10] so as to permit the Governor-General of India to reconstruct his Executive Council on a different basis. Mr. Attlee also referred to the States and hoped that they would not act as a bar to India's progress.

The Cabinet Mission arrived in India on 23rd March,1946.

At first it saw, in informal interviews, certain individuals and leaders of several parties and sections. At the end of these interviews, it left New Delhi for Kashmir for a short holiday. On its return, finding that nothing material had happened during its absence, it tried to bring about some sort of agreement between the Congress and the Muslim League. There were two difficulties in these initial stages : the one was that there was no agreement between the two parties as to the form of the Constituent Assembly and the composition of the Interim Government ; the other was that there was a wide difference of approach between the two parties. The Congress held strongly that the question of the Interim Government should first be settled after which a settlement as to the Constituent Assembly issue should follow. The Muslim League, on the other hand, was equally firm that, unless the long-term question associated with the setting up of the constitution-making machinery was settled, it could not discuss the composition of the Interim Government.[11]

The second stage of the discussions began with a period of personal interviews and conversations, during which a joint basis was worked out, and ultimately both parties agreed to meet in Simla to discuss the matter. The Cabinet Mission and the Viceroy came to the conclusion that, in order to obtain the ultimate agreement upon the whole matter, they would deal with the long-term question first and then immediately tackle the problem of the Interim Government.[12]

The basis of the discussions, which took place at Simla, relating to the future constitutional structure of India, was as follows :—

There was to be "a Union Government dealing with Foreign Affairs, Defence and Communications." There were to be "two groups of Provinces ; the one of the predominantly Hindu Provinces and the other of the predominantly Muslim Provinces dealing with all other subjects which the Provinces in the respective groups" desired "to be dealt with in common.

The Provincial Governments" would "deal with all other subjects and" would "have the residuary sovereign rights."[13]

The Congress and the Muslim League, however, could not come to any agreement on the fundamental issue of the unity or partition of India.

The Muslim League demanded two Constituent Assemblies for two groups of Provinces—the one of them consisting of the six Provinces (the Punjab, the North-West Frontier Province, Baluchistan, Sind, Bengal and Assam) to be known as the Pakistan group and the other consisting of the remaining Provinces of India. A group was to deal with all subjects other than foreign affairs, defence and communications necessary for defence. The constitution-making bodies of the two groups sitting together might make arrangements for the administration of those subjects. In other words, the idea was that instead of a federal union for the whole of India there might be a confederation of India and Pakistan.

Secondly, the Constituent Assembly of the Pakistan group would frame constitutions for the group ("Pakistan Federation") and the Provinces in the group. In this group, the residuary powers would vest in the Provinces.

Thirdly, after the constitutions for the Pakistan group and for the Provinces within the group had been framed, any Province might opt out of its group, provided the wishes of the people of that Province were ascertained by a referendum.

Fourthly, the joint constitution-making body would decide whether the Union should have a Legislature or not. In the Union Executive and the Legislature, if any, there was to be parity of representation between the two groups.

Fifthly, any major point in the Union constitution which affected a communal issue was to be passed in the joint constitution-making body by a majority of the members of the non-Pakistan Provinces and a majority of the members of the Pakistan group present and voting separately.

Lastly, the constitution of the Union would contain a provision whereby any Province could by a majority decision of its

Legislative Assembly call for a revision of the constitution, and would have the right to secede from the Union at any time after an initial period of ten years.[14]

The Congress, on the other hand, suggested a single Constituent Assembly to be elected by the Provincial Assemblies (so far as British India was concerned) by single transferable vote. Representatives of the States were to be chosen by a method to be decided later on.

Secondly, the Constituent Assembly was to frame a constitution for a federal union. The federation would have limited and specified powers, the residuary powers being vested in the Provinces.

Thirdly, groups of Provinces might be formed. To the Congress, the proper procedure was for one Constituent Assembly, to meet for the whole of India and, later, for groups to be formed, if so desired by the Provinces, and grouping was to be entirely optional. There would be no necessity of opting out of a group as the previous consent of the Province would be necessary for joining the group.

The representatives of the Provinces might form groups to decide the Provincial constitutions for their group and, if they wished, a group constitution. As regards compulsory grouping of Provinces at the initial stage, suggested by the Muslim League's demand for a Pakistan group of Provinces, the Congress pointed out that Assam had obviously no place in such a group and the N.W.F.P., as the election showed, was not in favour of the proposal.

Fourthly, in the Constituent Assembly, the passage of any matter regarding any communal issue would require the consent of a majority of the members of the community or communities concerned, present and voting separately.

Fifthly, if a dispute arose in the course of constitution-making the matter would be referred to arbitration.

And finally, the constitution would provide for a revision

of the constitution at any time, if desired at ten-yearly intervals.[15]

Thus, while both the parties were willing to make concessions in the matter of settling a major communal issue or in the matter of the revision of the constitution, there were fundamental differences between them over the vital point of unity or partition of India. The Congress stood for a single Constituent Assembly for India, which would frame a federal constitution with residuary powers for the Provinces, thus meeting the League's fear of Hindu domination at the Centre. The utmost concession that the League could make to the Congress demand was a confederal union between two states. The two-nation theory was pushed to the extreme by demanding that in the Union Executive and Legislature there should be parity of representation between the two states. The League was, moreover, careful to emphasise that the method of financing the expenditure of the confederal union should by no means be taxation.

With such a difference of views, any agreement was impossible. The Cabinet Mission and the Viceroy, therefore, made their own proposals which had the full approval of the British Government. On 16th May, 1946, they issued a statement in which they gave their long-term scheme,[16] leaving the short-term arrangement for future negotiations. Exactly after a month, i.e., on 16th June, 1946, the short-term arrangement was disclosed.[17] Together, they give us the full picture of the Cabinet Mission Plan.

As regards the long-term scheme, they rejected the Muslim League's demand for Pakistan for the simple reason that it would not solve the problem of communal minorities because the percentage of non-Muslims living in the north-western zone of Pakistan would be 37.93 and of those living in the north-eastern zone 48.31 of the total population. They did not see any justification for including in Pakistan those districts of the Punjab and of Bengal and Assam in which the population was predominatly non-Muslim. According to

them, every argument that could be used in favour of Pakistan could equally be used in favour of the exclusion of the non-Muslim areas from Pakistan. The Cabinet Mission and the Viceroy could not also justify a smaller Pakistan involving a radical partition of the Punjab and Bengal because, according to them, it would be contrary to the wishes and interests of a very large proportion of the inhabitants of these Provinces. The Cabinet Mission and the Viceroy also rejected the idea of Pakistan on administrative, economic and military grounds. They saw that India had been administered as a unit. Its Army had been one. Its economic structure had been closely integrated. To divide the country would make for weakness. Further, the Indian States would find it difficult to join either of the Unions. And finally, the two zones of Pakistan would be separated by hundreds of miles and hence would always have to depend on the goodwill of India for communication.

Though they rejected the idea of Pakistan, they, nevertheless, appreciated the very "genuine" apprehension of the Muslims that their culture and political and social life might be ruined by Hindu domination. They, therefore, tried to arrive at a solution which would allay Muslim fears.

Regarding the States, the Cabinet Mission and the Viceroy found that, with the attainment of independence by India, whether inside or outside the British Commonwealth, the relationship which had existed between the Rulers of the States and the British Crown would no longer be possible. Paramountcy could neither be retained by the Crown nor transferred to the new Government. They, however, hoped that the States would negotiate their way into the Union.

The Cabinet Mission and the Viceroy, therefore, recommended that the constitution of India should take the following basic form, as given in paragraph 15 of the statement of 16th May, 1946 :—

"(1) There should be a Union of India, embracing both British India and the States, which should deal with the following subjects : foreign affairs, defence and communications ;

and should have the powers necessary to raise the finances required for the above subjects.

"(2) The Union should have an executive and a legislature constituted from British Indian and States representatives. Any question raising a major communal issue in the legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting.

"(3) All subjects other than the Union subjects and all residuary powers should vest in the provinces.

"(4) The States will retain all subjects and powers other than those ceded to the Union.

"(5) Provinces should be free to form groups with executives and legislatures, and each group could determine the provincial subjects to be taken in common.

"(6) The constitutions of the Union and of the groups should contain a provision whereby any province could, by a majority vote of its legislative assembly, call for a reconsideration of the terms of the constitution after an initial period of ten years and at ten-yearly intervals thereafter."

The intention of the Cabinet Mission was to set in motion a Constituent Assembly—the machinery whereby a constitution could be settled by Indians themselves. The Constituent Assembly would, according to the scheme, be elected by the Provincial Legislative Assemblies, adult suffrage having been ruled out as it would involve delay in the making of the new constitution. Seats were allotted to each Province in proportion to its population, roughly in the ratio of one to a million. This Provincial allocation of seats was divided between the main communities in each Province in proportion to their population. The representatives allotted to each community in a Province were to be elected by the members of that community in its Legislative Assembly. For these purposes three main communities were recognised—Muslim,

Sikh and the 'General.' The 'General' community included all those who were neither Muslim nor Sikh.

The Provinces were grouped into 'sections' and the number of representatives, total as well as communitywise, to be elected by each Provincial Legislative Assembly was fixed in the sheme as shown below :—

TABLE OF REPRESENTATION.

Section A.

Province	General	Muslim	Total
Madras	45	4	49
Bombay	19	2	21
U.P.	47	8	55
Bihar	31	5	36
C.P.	16	1	17
Orissa	9	0	9
	167	20	187

Section B.

Province	General	Muslim	Sikh	Total
Punjab	8	16	4	28
N.W.F.P.	0	3	0	3
Sind	1	3	0	4
	9	22	4	35

Section C.

Province	General	Muslim	Total
Bengal	27	33	60
Assam	7	3	10
	34	36	70

In order to represent the Chief Commissioners' Provinces, there were to be added to Section A the member representing

Delhi in the Central Legislative Assembly, the member representing Ajmer-Merwara in the Central Legislative Assembly, and a representative to be elected by the Coorg Legislative Council.

To Section B was to be added a representative of British Baluchistan.

The total number of representatives for British India was, therefore, to be 296. The maximum for the Indian States was fixed at 93. Altogether, there would be 389 members in the Constituent Assembly.

The method of selection of the representatives of the States would have to be determined by consultation. The States would, in the preliminary stage, be represented by a Negotiating Committee.

The representatives were to meet at New Delhi.

The general procedure was specified in paragraph 19, sub-paragraphs IV-VIII of the statement, as given below :—

"(IV) A preliminary meeting will be held at which the general order of business will be decided, a Chairman and other officers elected, and an Advisory Committee....on the rights of citizens, minorities, and tribal and excluded areas set up. Thereafter the provincial representatives will divide up into three sections shown under A, B and C, in the Table of Representation.....

"(V) These sections shall proceed to settle the provincial constitutions for the provinces included in each section, and shall also decide whether any group constitution shall be set up for those provinces and, if so, with what provincial subjects the group should deal. Provinces shall have the power to opt out of groups in accordance with the provisions of sub-clause (VIII) below.

"(VI) The representatives of the sections and the Indian States shall reassemble for the purpose of settling the Union constitution.

"(VII) In the Union Constituent Assembly resolutions

varying the provisions of paragraph 15 above or raising any major communal issue shall require a majority of the representatives present and voting of each of the two major communities. The Chairman of the Assembly shall decide which, if any, resolutions raise communal issues and shall, if so requested by a majority of the representatives of either of the major communities, consult the Federal Court before giving his decision.

"(VIII) As soon as the new constitutional arrangements have come into operation it shall be open to any province to elect to come out of any group in which it has been placed. Such a decision shall be taken by the legislature of the province after the first general election under the new constitution."

The Advisory Committee on the rights of citizens, minorities, and tribal and excluded areas was to contain due representation of the interests affected. Its function was to be to report to the Union Constituent Assembly upon the list of fundamental rights, the clauses for the protection of minorities, and a scheme for the administration of the tribal and excluded areas, and to advise whether those rights were to be incorporated in the Provincial, Group or Union constitution.

It would be necessary to negotiate a treaty between the Union Constituent Assembly and the United Kingdom to provide for certain matters arising out of the transfer of power.

The statement contemplated the setting up of an Interim Government in which all the portfolios including that of the War Member were to be held by Indian leaders having the support of the major political parties. The details of the Interim Government were left for future negotiations.

Mr. Jinnah received the plan with a mixed feeling. He noted the points of difference between the League's demand and the Cabinet Mission's scheme. The matters which were objectionable to the Muslim League President and fell short of the Muslim League's demands were : (1) a single Union for the whole of India ; (2) the Union's powers, specially

those relating to communications and the raising of finances ; (3) The provision for a Union Legislature ; (4) the absence of any provision for a parity between the "Pakistan group" and the "Hindustan group" in the Union Executive and Legislature ; (5) the absence of a clear-cut provision for secession of the "Pakistan group" from the Union ; and (6) the decision to opt out of a group being left to the new Legislature of a Province instead of a referendum of the people. Moreover, the provision whereby "any question raising a major communal issue in the Legislature should require for its decision a majority of the representatives present and voting of each of the two major communities as well as a majority of all the members present and voting" appeared to Mr. Jinnah vague and ineffective for the point was: who was to decide—and how—as to what was a major communal issue? To him, the method of the composition of the Constituent Assembly was such as to make it a predominantly Hindu body, though he saw one saving clause which ran as follows :—"In the Union Constituent Assembly resolutions varying the provisions of paragraph 15 above or raising any major communal issue shall require a majority of representatives present and voting of each of the two major communities." He did not like the provision under which the Chairman of the Assembly was to decide which (if any) of the resolutions raised major communal issues, because he was to be elected by the Hindu majority. Mr. Jinnah also took exception to the lack of any provision for the method of including a representative of Baluchistan in the Constituent Assembly.[18]

Though the Muslim League was much annoyed that its demand for a sovereign state of Pakistan had been rejected by the Cabinet Mission and the Viceroy, yet it decided to go to the Constituent Assembly on the ground that the principle of Pakistan was embodied in the Plan. It saw the basis of Pakistan in the "compulsory grouping of the six Provinces in sections B and C," and decided to "keep in view the opportunity and the right of secession of Provinces or Groups from

the Union which had been provided" for in the Cabinet Mission's scheme "by implication." It reserved the right to revise its policy at any time if it found it necessary. As regards the Interim Government, it authorised its President to negotiate with the Governor-General and to take such decision as he might think proper.[19]

The Congress Working Committee at its meeting on 24th May, 1946, found a difference between the objectives of the Congress and the British proposals. The Congress wanted a strong, though limited, Central authority, full autonomy for the Provinces, and the establishment of a democratic structure in the Centre and in the constituent Units. It, however, reserved its final decision until certain points were made clear. Its objections were mainly to the provisions for grouping and to voting by Europeans. Pointing to the inconsistencies in the provisions relating to grouping it said, "In order to retain the recommendatory character of the statement, and in order to make the clauses consistent with each other, the committee read paragraph 15 to mean that, in the first instance, the respective provinces should make their choice whether or not to belong to the Section in which they are placed." It wanted the Constituent Assembly to be considered as a sovereign body with final authority for drawing up a constitution and giving effect to it. The Congress found the right of European members of Legislatures, particularly in Assam and Bengal, to offer themselves as candidates for election, or vote in the elections, to the Constituent Assembly wholly objectionable. According to the terms of the statement of 16th May, the Indian constitution was going to be framed by the Indians only. There was, therefore, no reason why the Europeans should vote. Again, the Europeans were far too small a minority to deserve any representation. According to the Cabinet Mission Plan, there was to be one representative for every million inhabitants. The European population of Bengal and Assam was 21,000. But the European members of the Provincial Assemblies there were entitled to send to the Constituent

Assembly 7 Europeans. In this way, the Europeans were given a fantastic weightage. This representation of the Europeans in the Constituent Assembly would be at the cost of non-Muslims, that is, practically the Hindus who were already a minority in Bengal. To make a minority suffer in this way was, according to the Congress, wholly wrong. Moreover, the Congress could not bear the idea of a representative being nominated to the Constituent Assembly. But this was actually going to happen in regard to Baluchistan. It (the Congress) found the method of electing the Coorg representative by the Coorg Legislative Council equally faulty, as it (the Legislative Council) contained some nominated members as well as Europeans elected from a special constituency of less than one hundred electors. The lack of any precise provision for the manner of representation of the States was also a matter of grave concern to the Congress. Finally, the status, powers and composition of the provisional Government were matters about which the Congress wanted to be assured. Regarding its composition, the Congress would not hear of any 'parity' between the Congress and the Muslim League; and, regarding status, it was definitely of the view that the Interim Government should function as a Cabinet responsible to the Central Legislature, the Governor-General acting as a constitutional ruler.[20]

The statement of 16th May was elaborated by the Cabinet Mission in a statement made on 25th May, 1946.[21] From these two statements along with the series of correspondence between the members of the Cabinet Mission, the Viceroy and the Indian party leaders, and, of course, from Parliamentary debates, we get a full picture of the long-term scheme.

The whole statement was in the nature of recommendations as to the broad basis of the future constitution, the details of which could be filled by the Constituent Assembly. The British Government just could not wait for an agreement amongst the Indians themselves. As it had been decided by the British Government that India should have independence, the Cabinet Mission desired to get the representatives

of different sections of the Indians into the constitution-making machinery as soon as possible. Hence the recommendations.

The long-term scheme contemplated a three-tier constitution. At the top of this, there would be a Union of India with an Executive and a Legislature empowered to deal with defence, external affairs and communications and the finances necessary for those services. At the bottom, there would be autonomous Provinces with all the residuary powers. Between the Union at the top and the Provinces at the bottom, there would be Groups of Provinces for the administration of common services with Executives and Legislatures of their own. According to the Cabinet Mission, the Provinces were, in the first instance, bound to belong to the sections in which they were placed. The Cabinet Mission considered the provisions relating to grouping to be an essential feature of the scheme which could only be modified by agreement between the two parties.[22] The results of the general elections, held in 1945-46, guided the Cabinet Mission in making the provisions for the grouping of Provinces. The Muslim League had captured the majority of the Muslim seats and the Congress the majority of all the others.[23] It was, therefore, clear that the two communities, Muslim and Hindu, had practically ranged themselves on the side of the Muslim League and that of the Congress respectively. While the League claimed a division of India into two sovereign states, the Congress wanted one single India. The Cabinet Mission hoped that, by the grouping provision, the Muslims would secure the advantages of Pakistan without its disadvantages. The procedure laid down by the Mission was that, after a preliminary meeting, the representatives of the Provinces were to divide up into sections. Each section would decide whether a Group was to be formed and what its constitution was to be. After deciding on Provincial and Group constitutions, if any, the different sections would unite and frame the Union constitution. After the first elections under the new constutition framed by the section, a Province would be free to opt out of a Group in

which it might have been included. The decision would be taken by the Provincial Legislature after the first general elections under the new constitution. This was taken to be a safeguard for Provinces unwilling to join in a Group. The Cabinet Mission thought that it was only fair that the sections should be formed before the Union constitution was framed. The Cabinet Mission had recommended this procedure because it was in line with the suggestion the Congress had put forward as regards the Provinces and a single Federation. The Congress had suggested that all the Provinces should come in at the beginning but could opt out of the Federation if they did not like the constitution when they had seen it. The Cabinet Mission thought that this principle could apply to the Groups. The second reason for the provision relating to opting out in the statement of 16th May was that the then Legislatures were not truly representative of the whole population because of limited franchise and the Communal Award with its weightage.[24] Hence the provision for opting out after the general elections so that the people's will might properly be ascertained. This interpretation of the grouping clause was entirely at variance with that of the Congress which took the view that each Province should make its own choice whether or not to belong to the section in which it had been placed. The Congress laid emphasis on sub-paragraph (5) of paragraph 15 as against sub-paragraphs (IV), (V) and (VIII) of paragraph 19 of the statement of 16th May. As we shall see later on, difficulties arose out of the very unhappy wording of these different sub-paragraphs.

The Cabinet Mission was most anxious to protect the interests of the minorities, particularly the smaller ones. The Mission thought that to give the smaller minorities any effective weightage in the constitution-making body would upset the balance between the major communities. Without weightage, again, their representation would be useless. So, the Mission dealt with the problem of minorities in two ways. The major minorities—such as the Hindus in the Muslim-majority

Provinces and the Muslims in the Hindu-majority Provinces, the Sikhs in the Punjab, and the Scheduled Castes who had considerable representation in a number of Provinces—were dealt with by proportional representation in the constitution-making bodies. Moreover, for dealing with these, and particularly smaller minorities like the Indian Christians and the Anglo-Indians and also the tribal people, an Advisory Committee would be set up by the constitution-making body.[25]

The election of the Constituent Assembly was to be by the Provincial Legislative Assemblies. This was considered to be the only alternative to election on the basis of adult suffrage. But the defect in the composition of the Legislative Assemblies, namely, that they did not properly reflect the composition of the various communities on account of the Communal Award with weightage, was sought to be removed by making the number of seats available to a community proportionate to its strength of population. As all the members of the Legislative Assembly other than Muslims and Sikhs would elect the 'General' representatives for the Constituent Assembly, it was possible that a few Europeans could be elected to the Constituent Assembly. Whether the right so given would be exercised was left to be decided by the Europeans themselves.[26] On the insistence of Gandhiji that the Europeans should have no vote, the latter made a statement that they would refrain from voting for themselves but would vote for electing Indian representatives. Gandhiji was bitterly against that too. Later on, the Europeans of Assam and Bengal[27] did not take part in the election of the members of the Constituent Assembly but those of the U.P. did. As a result of the negotiations between the Congress President and Lord Pethick-Lawrence, it was decided that the representatives of Baluchistan would be elected in a joint meeting of the Shahi Jirga and the non-official members of the Quetta Municipality. Similarly, it was decided that, in Coorg, the whole Legislative Council would have the right to vote but the official members would receive instructions not to take part in the election.

Once the Constituent Assembly was formed and began functioning on the lines laid down by the Cabinet Mission, it was not to be interfered with by the British authorities. When the Constituent Assembly would finish its work, the British Government would recommend to Parliament such action as was necessary for the cession of sovereignty to the Indian people, subject to two provisoes, namely, adequate provisions for the protection of minorities and willingness to conclude a treaty to cover matters arising out of the transfer of power to India.[28]

For work till the new constitution was framed, an Interim Government was to be constituted by the Governor-General, composed of himself and some Indian leaders likely to command the confidence of the people. They would be chosen from the leaders of the main political parties in the country. In this Government, all the portfolios including that of the War Member would be held by Indians. The Commander-in-Chief of India would continue to be responsible for the command and welfare of the Army, Navy and Air Force, but all political matters would be in the hands of the new War Member under whom the Commander-in-Chief would serve just as the commanders served in Britain under civilian ministers.[29] During the period in which the constitution would be in the making, British troops would remain in India.[30]

Until the new Indian constitution was introduced, administration at the Centre would be carried on under the transitional provisions of the Government of India Act, 1935, taken with the Ninth Schedule to the Act as modified by the India (Central Government and Legislature) Act, 1946. Hence, the Interim Government could not legally be made responsible to the Central Legislature. In practice, however, it might be used as a Cabinet, i.e., there was nothing to prevent the members of the Government individually, or by common consent, from resigning, if they failed to pass an important measure through the Legislature, or if a vote of no-confidence was passed against them.[31]

CHAPTER XI

THE PLAN ON TRIAL

The British Conservative Party's reaction to the Cabinet Mission's proposal was that it was a breach of faith. Mr. Churchill told the House of Commons that the offer which he as the head of the Coalition Government had made to India in 1942 was that of Dominion Status with the right of secession. But this had been subject to (1) a prior agreement between the main Indian parties and (2) adequate provisions for minorities and for the observance of treaty obligations to the Indian States. The Conservative Party stood by the offer of 1942. Now that, even in the absence of an agreement between the main Indian parties, the Cabinet Mission had offered direct and immediate independence and the severance of all constitutional ties uniting the former Indian Empire to the British Commonwealth of Nations, it was far from the policy of the Conservative Party. Mr. Churchill registered his dissent from the policy of the Government and showed his grave concern for the Muslims, the Scheduled Castes and the Indian States.[1]

Gandhiji considered the statement of 16th May to be the best document the British could have produced in the then existing circumstances. Still, he did not like all its provisions. He held that the freedom to form Groups should remain intact, that no Province should be asked to belong to a Group against its will and that the Sikhs for whom the Punjab was the only home should not, against their will, belong to a Group. He was against the idea of the N.W.F.P.'s or Assam's belonging to any Group against its wishes.[2] Gandhiji thought that the Interim Government should have been formed before the statement was issued, because the needs of the country demanded the immediate setting up of an

Interim Government. He did not think it enough to say that Paramountcy would "end with the end of British rule in India." According to him, even during the interim period "it should be exercised in co-operation with" the Interim Government and "purely for the benefit of the people of the States." Gandhiji did not favour the proposal that the British troops should remain in India during the interim period for, according to him, that would act as a damper on the work of the Constituent Assembly.[3] Finally, he was clearly of the view that the Europeans should have no right to vote for electing the members of the Constituent Assembly, as the constitution of India was going to be framed by the Indians.[4]

The future of the Plan was determined by the decisions of the Congress and the League after the short-term project of the British Government was disclosed.

As already stated, the Cabinet Mission Plan had contemplated the establishment of an Interim Government. During the preliminary talks at Simla, the Viceroy had also opened discussions as to the formation of an Interim coalition Government to be composed of twelve members on the basis of five representatives of the Congress, five of the Muslim League and two of the minorities. That basis was, to some extent, influenced by the Simla talks of 1945. The Congress objected to a parity between the two parties.[5] The Cabinet Mission and the Viceroy tried to overcome the difficulty by adding a Scheduled Caste representative who was also a Congressman to the Congress quota, thus raising it to six in relation to the League quota of five. There were also to be two representatives of two other minorities. The Interim Government would then have been composed of thirteen members and not twelve as originally proposed. In this proposal, there was a parity between Caste Hindus and Muslims and, moreover, the term Muslim was supposed to mean members of the Muslim League alone. The Congress made it clear that it was opposed to parity in any shape or form. It also objected

to the reservation of all Muslim seats for the Muslim League. The negotiations having failed, the Cabinet Mission and the Viceroy issued a statement on 16th June, regarding the formation of the Interim Government and the steps to be taken for the formation of the constitution-making body. The relevant portions of the statement are quoted below :—

"3.....The Viceroy is ..... issuing invitations to the following to serve as members of the Interim Government, on the basis that the constitution-making will proceed in accordance with the statement of May 16th :

Sardar Baldev Singh.	Dr. John Matthai.
Sir N. P. Engineer.	Nawab Mohammed Ismail Khan.
Mr. Jagjivan Ram.	Khwaja Sir Nazimuddin.
Pandit Jawaharlal Nehru.	Sardar Abdur Rab Nishtar.
Mr. M. A. Jinnah.	Mr. C. Rajagopalachari.
Nawabzada Liaquat Ali Khan.	Dr. Rajendra Prasad.
Mr. H. K. Mahtab.	Sardar Vallabhbhai Patel.

"If any of those invited is unable for personal reasons to accept, the Viceroy will after consultation invite some other person in his place.

"4. The Viceroy will arrange the distribution of portfolios in consultation with the leaders of the two major parties.

"5. The above composition of the Interim Government is in no way to be taken as a precedent for the solution of any other communal question. It is an expedient put forward to solve the present difficulty only, and to obtain the best available coalition Government.

"6. The Viceroy and the Cabinet Mission believe that Indians of all communities desire to arrive at a settlement of this matter so that the process of Constitution-making can go forward and that the Government of India may be carried on as efficiently as possible in the meantime.

"7. They therefore hope that all parties especially the two major parties will accept this proposal so as to over-

come the present obstacles and will co-operate for the successful carrying on of the Interim Government. Should this proposal be accepted the Viceroy will aim at inaugurating the new Government about the 26th June.

"8. In the event of the two major parties or either of them proving unwilling to join in the setting up of a coalition Government on the above lines, it is the intention of the Viceroy to proceed with the formation of an Interim Government which will be as representative as possible of those willing to accept the statement of May 16th.

"9. The Viceroy is also directing the Governors of the Provinces to summon the Provincial Legislative Assemblies forthwith to proceed with the elections necessary for the setting up of the Constitution-making machinery as put forward in the statement of May 16th."[6]

The Congress reaction to the Cabinet Mission Plan was now finally expressed in the letter of the Congress President to the Governor-General, dated 25th June, and in the Congress Working Committee's resolution of the same date.[7] While rejecting the Governor-General's proposals for the Interim Government, the Working Committee decided to join the Constituent Assembly with a view to framing the constitution of a free, united and democratic India.

The Congress was unable to accept the proposals regarding the Interim Government because of its proposed composition.

In the list of the proposed names, there were six Hindus belonging to the Congress, five Muslims belonging to the League and three others belonging to the Parsi, Sikh and Indian Christian communities. The total number was increased to fourteen. Of the Hindus, one belonged to a Scheduled Caste. As the Scheduled Castes were treated as a minority group, parity was sought to be established between the Congress and the Muslim League. Again, no Nationalist Muslim was included in the list. The Congress felt it to be a grave omission. It wanted to include a Muslim

of its own choice in the proposed Interim Government. Besides the opposition of the Muslim League President (Mr. Jinnah) to any such appointment, the Governor-General had expressed the view that he and the Cabinet Mission were not prepared to include a Muslim chosen by the Congress among the representatives of the Congress in the Interim Government. The Congress took it to be an insult to itself because it amounted to a negation of its non-communal, nationalist claim to represent all the people of India without distinction of race, religion or community. It could not accept the position implied by this negation. Moreover, in reply to a question put by Mr. Jinnah, the Governor-General had said that, in case any vacancy occurred in the office of a member representing a minority community (the Scheduled Castes or the Sikhs or the Indian Christians or the Parsis), the main parties would be consulted by the Governor-General before it was filled up. The Congress took exception to this. It came to understand that both Mr. Jinnah and the Govenor-General looked upon the Scheduled Castes as a minority community, while the Congress looked upon them as an integral part of the Hindu society. The Congress could not accept the position that the leader of a minority community (meaning the Muslims) should interfere with the selection of a representative of the Scheduled Castes, which fell within the Congress quota, or with the selection of the representative of any other minority. Again, the Governor-General had assured Mr. Jinnah that the proportion of the members of the Interim Government communitywise would not be changed without agreement of the two major parties. According to the Congress, here again, one communal group (namely, the Muslim League) was given the power to veto changes in other communal groups. The Congress could not agree to such an assurance to Mr. Jinnah, because it was contemplating to include an Anglo-Indian in the Government and make the total number fifteen. The upshot of the whole matter was that the Congress was restricted to the representation of Caste Hindus

and was made politically equal to the League. It could not tolerate what appeared to it to be an unjust parity. Moreover, the Governor-General had written to Mr. Jinnah that no decision on a major communal issue could be taken by the Interim Government if the majority of either of the main parties were opposed to it. The Congress had accepted this principle for the long-term arrangement in the Union Legislature and was ready to appply it to the Provisional Government if it was responsible to the Legislature and was composed of representatives on the basis of the population of the major communities. As the proposed Interim Government was to be constituted on a different basis, the Congress thought that the principle would merely give the Muslim League the power of veto in the Interim Government. The Congress could not agree to this veto of a communal group.

Besides this major problem of parity between the Muslim League and the Congress, there was also another ground of objection from the Congress side. In the proposed list, there was the name of Sir N. P. Engineer who was an official. The Congress felt that he was there in an official rather than in a representative capacity, thereby detracting from the representative character of the Interim Government.

These were the reasons why the Congress could not accept the short-term arrangement. As regards the long-term scheme, the Working Committee disapproved of the limitation of the Central authority as contained in the proposals. It also objected to the system of grouping as being unfair to some of the Provinces, such as Assam and the N. W. F. P., and to some of the minorities, notably the Sikhs. Still, it adopted a resolution in favour of going to the Constituent Assembly, because it thought that, regard being had to the proposals as a whole, "there was sufficient scope for enlarging and strengthening the Central authority and for fully ensuring the right of a Province to act according to its choice in regard to grouping and to give protection to such minorities as might otherwise be placed at a disadvantage."

The Working Committee also reiterated its view that it would be a breach of both the letter and the spirit of the statement of 16th May, if any non-Indian participated in voting or stood for election to the Constituent Assembly.

The decision of the Working Committee was later approved by the A.I.C.C. which met at Bombay on 6th and 7th July.[8]

As the Congress refused to join the proposed Interim Government, the Cabinet Mission and the Governor-General declared in their statement of 26th June, 1946, that further negotiations should be adjourned for a short time pending elections to the Constituent Assembly, and that a temporary care-taker Government of officials would be set up by the Governor-General.[9] The ground for this post-ponement was given in a letter written by Lord Wavell to Mr. Jinnah on 28th June.[10] The Viceroy explained that "as Congress had accepted the statement of 16th May while refusing to take part in the Interim Government proposed in the statement of the 16th June, this had produced a situation in which paragraph 8 of the statement of the 16th June[11] took effect." He added : "Since the Congress and the Muslim League had now both accepted the statement of 16th May, it was the intention (of the Cabinet Mission and the Viceroy) to form a Coalition Government including both those parties as soon as possible. In view, however, of the long negoti-ations which had already taken place, and since we all had other work to do, we felt that it would be better to have a short interval before proceeding with further negotiations for the formation of an Interim Government."

On 29th June, the day when the Cabinet Mission left for Britain, the personnel of the care-taker Government was announced.[12]

When the statement of 16th June was issued, Mr. Jinnah said that he would wait for the Congress decision before giving the decision of the Muslim League. He, however, fully explained to the Governor-General the objections of

the Muslim League to the proposal for the formation of the Interim Government. The Interim Government had been proposed to be composed of fourteen members of whom five were Muslims belonging to the Muslim League, five were Caste Hindus belonging to the Congress, one was a Scheduled Caste member belonging to the Congress and the remaining three were members of minority communities belonging to neither of the major parties. Mr. Jinnah pointed out that, in making this proposal, the Governor-General had abandoned parity between the Congress and the Muslim League, had substituted parity between the Muslim League and Caste Hindus and had given an additional seat to the Congress in the Interim Government by nominating a Congressman belonging to a minority community. This new formula had, according to the Muslim League, adversely affected the proportion of the Muslim League in the Interim Government as a whole against the Congress as a single group.[13]

Mr. Jinnah, however, sought certain clarifications[14] from the Governor-General who complied with his request.[15] These clarifications, if they were given effect, would have made the Muslim League an equal partner with the Congress in the Interim Government. On the strength of these clarifications, the Muslim League Working Committee passed a resolution accepting the proposals of 16th June.[16] As the Congress refused to join the Interim Government, Mr. Jinnah demanded the formation of the Interim Government with the Muslim League—even without the Congress —on the basis of the statement of 16th June.[17] When the Cabinet Mission and the Governor-General announced the adjournment of negotiations relating to the formation of the Interim Government for the time being while elections to the Constituent Assembly were allowed to continue, Mr. Jinnah grew angry and urged the Governor-General to postpone also the elections to the Constituent Assembly. Mr. Jinnah's argument was that, according to all the relevant

documents—particularly, the two statements of the Cabinet Mission and the Viceroy, dated 16th and 25th May, 1946—the long-term scheme and the formation of the Interim Government formed one whole, each constituting an integral part of the whole Plan. It was, therefore, undesirable, according to Mr. Jinnah, to proceed with one part (the long-term scheme) and to postpone the other (the Interim Government).[18] The elections to the Constituent Assembly, however, were not postponed.

Then, the Council of the Muslim League withdrew its accetpance of the Cabinet Mission Plan by a resolution passed on 29th July, 1946. The resolution of the League Council stated that though the Viceroy's announcement of 16th June was "a breach of faith" as "the Cabinet Delegation and the Viceroy went back on the original formula of 5:5:2 for the setting up of the Interim Government to placate the Congress,"[19] the Muslim League had definitely accepted the proposal for setting up the Interim Government embodied in the announcement of 16th June, "because the Viceroy provided safeguards and other assurances in his letter, dated 20th June." "The Viceroy, however," said the resolution ,"scrapped the proposal of June 16 and postponed the formation of the Interim Government on the plea concocted by the legalistic talents of the Cabinet Mission putting a most fantastic and dishonest construction upon paragraph 8 of the statement to the effect that, as both the major parties, i.e., the Muslim League and the Congress, had accepted the statement of May 16, the question of the Interim Government could only be taken up in consultation with the representatives of both the parties *de novo*. Even assuming that this construction was tenable, for which there is no warrant, the Congress, by their conditional acceptance, with reservations and interpretations of their own, as laid down in the letter of the President of the Congress, dated June 25, and the resolution of the Working Committee of the Congress, passed at Delhi on June 25, repudiating the

very fundamentals of the scheme had, in effect, rejected the statement of May 16; and, therefore, in no event was there any justification whatsoever for abandoning the final proposals of June 16."[20]

The League resolution added that the Congress had agreed only to go into the Constituent Assembly and to nothing else, and that it considered the Constituent Assembly to be a sovereign body with the power to take such decisions as it might think proper. Reference was made to the speeches of the prominent members of the Congress at the A.I.C.C. session in Bombay on 6th July, and to the speech of Pandit Nehru at a Press conference in Bombay on 10th July in which he was reported to have said: "We have agreed to go into the Constituent Assembly and we have agreed to nothing else.....What we do there, we are entirely and absolutely free to determine. We have committed ourselves to no single matter to anybody."[21] The League was afraid that, once the Constituent Assembly was summoned, there was nothing to prevent the Congress with its majority from making the Assembly take such decisions as it (the Congress) might think proper or suitable. In particular, the League feared, the Constituent Assembly, dominated by the Congress, might wreck the provisions relating to grouping and extend the powers of the Union Centre.

This being its apprehension, the Muslim League rejected the proposals of the Cabinet Mission and resolved to resort to direct action to achieve Pakistan.[22]

So far, we have discussed the reaction of the two main parties to the Cabinet Mission Plan. Let us now turn to the reaction of the Sikhs.

In the Sikh Memorandum to the Cabinet Mission submitted by Master Tara Singh on 5th April, 1946, one notices a strong opposition of the Sikhs to any possible partition of India. The Sikhs demanded that the statutory Muslim majority in the Legislature of the Punjab (which was the homeland of the Sikhs) must go, and that the Sikhs should

be given additional representation so as to ensure to them an effective voice in the administration of the Province. As an alternative measure, they demanded a separate Province in which the Sikhs would be in a substantial majority. The Memorandum argued that, if the Muslim demand for Pakistan was accepted, the Sikhs had as good a claim to a separate sovereign state of their own. And finally, if a separate Constituent Assembly was granted to the Muslims, the Sikhs also must have a separate Constituent Assembly.[23] After the Cabinet Mission's proposals were out on 16th May, the Sikh Panthic Conference at Amritsar, dated 10th June, 1946, denounced the British scheme on the ground that it had adversely affected the position of the Sikhs by the compulsory grouping of Provinces. The Sikhs' grievance was that their homeland had been "liquidated."[24] They even formed a Council of Action to give a tough fight to the British, in case their proposals were not modified according to their demands. On 14th August, however, the Sikh Panthic Conference passed another resolution, practically revising its decision and accepting the Cabinet Mission's statement of 16th May.

CHAPTER XII

THE PRELUDE TO PARTITION

The elections for the 296 seats of the Constituent Assembly, allotted to British India, were completed by the end of July, 1946. Though Mr. Jinnah had insisted on a postponement of the elections to the Constituent Assembly, the elections were not postponed and the Muslim League did not refrain from participating in the elections. The Congress won 205 seats including all the General seats but nine. The Muslim League won 73 seats out of the 78 allotted to the Muslims. For some time, the Sikh seats remained vacant because there had been no candidate. The Sikhs had declared a boycott of the elections. But, in the middle of August, after the Congress Working Committee promised to support them in the redress of their legitimate grievances, they reconsidered their position and decided to elect their four representatives.[1] Shortly afterwards, the Sikh seats also were filled.

As has already been said, the League had withdrawn its acceptance of the Cabinet Mission's proposals and had decided to resort to direct action. On 30th July, it fixed 16th August, 1946, as the "Direct Action Day."

In the meantime, negotiations had been reopened by the Viceroy on 22nd July, 1946, for the formation of an Interim Government. Letters containing the proposals of the Viceroy were sent to the President of the Congress (Pandit Nehru) and the President of the League (Mr. Jinnah). The proposals were as follows :—

(a) The Interim Government was to consist of fourteen members.

(b) Six members (including one Scheduled Caste representative) were to be nominated by the Congress. Five members

were to be nominated by the Muslim League. Three representatives of minorities were to be nominated by the Viceroy. One of them was to be a Sikh. It would not be open to either the Congress or the Muslim League to object to the names submitted by the other party provided they were accepted by the Viceroy.

(c) Distribution of the portfolios was to be decided after the parties had agreed to enter the Interim Government and had submitted the names of their nominees. The Congress and the Muslim League would each have an equitable share of the most important portfolios.

(d) As regards the status of the Interim Government, the Viceroy was sure His Majesty's Government would treat the new Interim Government with the same close consultation and consideration as a Dominion Government. Moreover, His Majesty's Government had already said that it would give the Interim Government the greatest possible freedom in the exercise of the day-to-day administration of the country.

The Viceroy would welcome a convention, "if freely offered by the Congress," that major communal issues could only be decided by the assent of both the major parties.[2]

In his letter to the Viceroy, dated 31st July, Mr. Jinnah put forward his objections on the following grounds :—

(1) In the proposed composition, there would be no parity between the Congress and the Muslim League. Besides, the Congress might nominate a "Quisling Muslim."

(2) In the distribution of portfolios, there would be no equal division of the most important portfolios between the Congress and the Muslim League.

(3) As regards the assurance of safeguards, the Viceroy could do no more than accept a convention and that only if it was "freely offered by the Congress."

(4) The representatives of other minorities were to be

appointed by the Viceroy without reference to or any consultation with the Muslim League.

These Mr. Jinnah considered to be detrimental to the Muslim League, having been devised to appease the Congress. Further, Mr. Jinnah categorically stated that these were departures from the previous stand of the Viceroy.

In view of these facts, Mr. Jinnah stated, the League Working Committee was not likely to accept the offer.[3]

Already, on 29th July, the League Council had withdrawn its acceptance of the Cabinet Mission Plan.[4] So, with regard to his negotiations with Mr. Jinnah, the Viceroy thought it prudent to wait for a while.

On 8th August, the Congress Working Committee accepted the Viceroy's proposals embodying his scheme of the Interim Government. That very day, Lord Wavell wrote to Mr. Jinnah that, in view of the League resolution of 29th July, he was inviting the President of the Congress to make proposals for the formation of the Interim Government.[5]

Pandit Nehru accepted the invitation[6] and immediately sought the co-operation of Mr. Jinnah in the matter.[7]

Mr. Jinnah enquired if this invitation meant that the Viceroy had commissioned Pandit Nehru to form the Executive Council of the Governor-General and had already agreed to accept and act upon his advice and proceed to constitute his Executive Council accordingly. Mr. Jinnah added that, if this was the case, he could not accept this position.[8]

Pandit Nehru explained that the Executive Council as such had not been mentioned and that the Interim Government would have the greatest possible freedom in day-to-day administration. He regretted Mr. Jinnah's inability to accept the position as it appeared to him (Mr. Jinnah), and hoped that, on fuller consideration, he (Mr. Jinnah) would revise his decision. He also pointed out that a "Coalition Provisional Government" was likely to solve the Hindu-Muslim problem.[9] He met Mr. Jinnah on 15th August, but

there was no agreement between them. From his talk with Pandit Nehru, Mr. Jinnah concluded that the Viceroy would be the constitutional Governor-General shorn of his power of veto and that Pandit Nehru would be forming not the Executive Council under the then constitution but a Provisional National Government responsible to the Legislative Assembly where the proportion of the Congress to the League was 3:1. Mr. Jinnah felt that, under such circumstances, he could not accept the proposal because, after that, there would be nothing to talk about the Muslim League's demand and its goal of Pakistan.[10]

On 16th August, 1946, the Direct Action Day was observed by the Muslim League in a memorable manner. In Bengal and Sind, which were under Muslim League Governments, the day was declared a public holiday. In almost every big town of India, processions were taken out and meetings were held for the purpose of realising the objective of Pakistan. There was an element of lawlessness in this observance of the Day and the most ominous part of it was that Calcutta was the scene of a horrible type of communal butchery.

The India (Central Government and Legistature) Act, 1946,[11] had already been passed. By Section I of this Act, Sub-section (3) of Section 36 of the Government of India Act, as continued in force by the Ninth Schedule to the Government of India Act, 1935 (being a provision that at least three Members of the Governor-General's Executive Council were to be persons who had been for at least ten years in the service of the Crown in India and that one Member thereof was to be a barrister, an advocate, or a pleader, of at least ten years' standing) was repealed. This Act, therefore, facilitated the complete deofficialisation of the Executive Council. It also removed the restriction of having a lawyer in the Council. The members of the care-taker Government resigned and their resignation was accepted by His Majesty. On 24th August, the personnel of the Interim Government was announced. A

communique´, issued from the Government House, New Delhi, stated : "His Majesty has accepted the resignations of the present members of the Governor-General's Executive Council. His Majesty has been pleased to appoint the following :—

Pandit Jawaharlal Nehru.
Sardar Vallabhbhai Patel.
Dr. Rajendra Prasad.
Mr. Asaf Ali.
Mr. C. Rajagopalachari.
Mr. Sarat Chandra Bose.
Dr. John Matthai.
Sardar Baldev Singh.
Sir Shafaat Ahmed Khan.
Mr. Jagjivan Ram.
Syed Ali Zahir.
Mr. Cooverji Hormusji Bhabha.

"Two more Muslim members will be appointed later. The Interim Government will take office on 2nd September."[12]

In a speech broadcast on 24th August, the Viceroy said :—

"..... Though 5 seats out of 14 were offered to the Muslim League, though assurances were given that the scheme of constitution-making would be worked in accordance with the procedure laid down, and though the new Interim Government is to operate under the existing Constitution, it has not been possible at present to secure a coalition.

"Let me state clearly the offer which has been made and is still open to the Muslim League. They can propose to me five names for places in a Government of fourteen of which six will be nominees of the Congress and three will be representatives of the minorities. Provided these names are acceptable to me and approved by His Majesty, they will be included in the Government which will at once be re-formed. The Muslim League need have no fear of being outvoted on any essential issue ; a coaltion Government can only exist and

function on the condition that the main parties to it are satisfied. I will see that the most important portfolios are equitably shared. I sincerely trust that the League will reconsider their policy and decide to participate in the Government.

".....I shall implement fully His Majesty's Government's policy of giving the new Government the maximum freedom in the day-to-day administration of the country. In the field of Provincial autonomy, of course, the Provincial Governments have a very wide sphere of authority in which the Central Government cannot intervene. My new Government will not have any power, or indeed any desire, to trespass on the field of Provincial administration."[13]

The Interim Government was installed on 2nd September, 1946. Just after this, Lord Wavell resumed his negotiations with Mr. Jinnah. On 13th October, thanks to the persuasion of Lord Wavell, the Muslim League decided to enter the Interim Government. With reference to this, Mr. Jinnah wrote to Lord Wavell that, though the League had not accepted the basis of the scheme of setting up the Interim Government as decided by Lord Wavell, yet it decided to join the Interim Government for safeguarding the interests of the Muslims and other minority communities and "for other very weighty grounds and reasons which are obvious".[14]

A *comunique*', issued from the Government House on 15th October, stated that the Muslim League had decided to join the Interim Government and that His Majesty the King was appointing five nominees of the Muslim League to the Interim Government.[15] Two seats were lying vacant. Three members of the Interim Government, namely, Mr. Sarat Chandra Bose, Syed Ali Zahir and Sir Shafaat Ahmed Khan, resigned in order to make it possible for it to be reconstituted.

The Muslim League nominees were : Mr. Liaquat Ali Khan, Mr. Ghazanafar Ali Khan, Mr. Abdur Rab Nishtar, Mr. I. I. Chundrigar and Mr. Jogendra Nath Mandal. The

first four were Muslims but the fifth was a Hindu belonging to a Scheduled Caste.

Thus, the Muslim League's quota of five included a Scheduled Caste member. It was, indeed, a bold assertion of its claim not only to have a voice in the selection of representatives of minorities but also itself to represent minorities. Further, the League wanted to demonstrate that, if the Congress could claim to represent all the people of India including the Muslims, the Muslim League also could claim to represent all the minorities including a section of the Hindus. If the Congress could fill its quota with a Congress Muslim, the League also could fill its quota with a sympathetic non-Muslim. Indeed, it was a very great move on the part of the League from its earlier position as the sole representative organisation of only the Muslims of India.

It is interesting to note that, before entering the Government, the League had not cancelled its Bombay resolution of 29th July, namely, the resolution not to accept the Cabinet Mission's statement of 16th May, 1946.

Lord Wavell had hoped that, since the basis for participation in the Interim Government was the acceptance of the statement of 16th May, the Muslim League Council would reconsider its resolution of 29th July.[16] The League nominees were allowed to join the Government on that assumption.

It seems, however, that letters written by Mr. Jinnah to Lord Wavell and to Pandit Nehru and also Mr. Jinnah's Press statements during the relevant period do not fully warrant such an assumption.

On 3rd October, 1946, Mr. Jinnah wrote to Lord Wavell, stating the conditions which he regarded as essential for the Muslim League to participate in the formation of the Interim Government. Point No. 9 of this letter reads : "The question of the long-term plan should stand over until a better and more conducive atmosphere is created and an agreement has been reached on the points stated above and after

the Interim Government has been re-formed and finally set up."[17]

In reply to this letter, Lord Wavell wrote to Mr. Jinnah on 4th October : "Since the basis for participation in the Cabinet is, of course, acceptance of the statement of May 16, I assume that the League Council will meet at a very early date to reconsider its Bombay resolution."[18]

On 6th October, Pandit Nehru wrote to Mr. Jinnah in the course of explaining his attitude to the points raised by Mr. Jinnah for the League's participation in the Interim Government : "I am hoping that if your Committee finally decide upon the League joining the National Cabinet, they will also decide simultaneously to join the Constituent Assembly or recommend to your Council to this effect."[19]

In reply to this, Mr. Jinnah wrote to Pandit Nehru on 7th October, clearly stating his points in which he said : "The question of the long-term plan should stand over until a better and more conducive atmosphere is created and an agreement has been reached on the points stated above and after the Interim Government has been re-formed and finally set up."[20]

Still, on 23rd October, Lord Wavell wrote to Pandit Nehru : "I have made it clear to Mr. Jinnah.....that the Muslim League's entry into the Interim Government is conditional on the acceptance of the scheme of the Cabinet Delegation contained in the statement of May 16 and explained in the statement of May 25 and that he must call his Council at an early date to agree to this." Lord Wavell also wrote about the League's intention to co-operate. He wrote : "As I told you, Mr. Jinnah has assured me that the Muslim League will come into the Interim Government and the Constituent Assembly with the intention of co-operating....."[21]

Mr. Jinnah, however, at a Press conference in Karachi on 25th November, said : "I have never for a single moment conveyed to the Viceroy anything, by way of assurances or otherwise, except that the long-term plan could only be

considered and decided by the Council of the All-India Muslim League. From the very begining until we nominated our five representatives, I told the Viceroy that the settlement of the long-term plan could only be taken up when a proper, friendly atmosphere was created between the two major organisations. The Congress has not budged an inch and the Viceroy repeatedly made it clear to me that it was no use discussing this matter further with any hope of persuading the Congress to make an unequivocal statement accepting the long-term plan as embodied in the statements of 16th and 25th May."[22]

On 26th October, 1946, the Muslim League nominees formally took office.[23] The League Council, however, was never summoned to reconsider its Bombay resolution.

Though the League joined the Interim Government, it did not really want to make it function on the basis of joint responsibility, which the Congress intended to make the working principle of the new Government.[24] Mr. Jinnah was reported to have told the representatives of the foreign Press in New Delhi that he did not consider the new Central Government either as a Cabinet or as a Coalition Government. As such, the question of joint responsiblility did not arise. To him, it was just the Executive Council of the Governor-General under the Government of India Act and Pandit Nehru was merely the Vice-President of the Council. He added that "the Interim Government should not be allowed to do anything, administratively or by convention, which would in any way prejudice or militate against the problem of the future constitution of India."[25]

The League abhorred the idea of collective responsibility so much that the League members of the Interim Government did not accept Pandit Nehru's invitation to join the other members in daily meetings. They joined the others only when the Viceroy called a meeting of the Executive Council.[26]

Thus, the new Interim Government was a house divided

against itself. Moreover, the co-operation of the Muslim League in the coming Coustituent Assembly was not at all assured.

Meanwhile, a series of communal riots had begun and created an ugly situation. The lawlessness let loose since the Direct Action Day of the Muslim League was never completely curbed. Communal tension was always high. In the middle of October, 1946, there was rioting on a large scale in the Muslim-majority districts of Noakhali and Tipperah in Bengal. There, the Muslim rioters committed serious crimes against the Hindus. It was widely believed that the lawlessness there had been organised by the Muslim League and actively supported by Muslim administrative officials. The events in Noakhali and Tipperah were followed by what were called reprisals by the Hindus in Bihar towards the end of October. The Bihar situation became particularly alarming and was brought under control with great difficulty. Gandhiji's threat of a fast unto death, Pandit Nehru's threat of aerial bombardment and the ceaseless activities of the Congress Government and leaders of Bihar served a great deal to quell the disturbances speedily.

In any case, the circumstances were not propitious for the Constituent Assembly that was going to meet and begin its work.

The Constituent Assembly was scheduled to meet on 9th December, 1946. On 20th November, invitations were sent over the signature of Lord Wavell to the members of the Constituent Assembly to meet at New Delhi.[27]

Mr. Jinnah declined the invitation and said that no representative of the Muslim League should participate in the deliberations of the Constituent Assembly. He said: "It is quite obvious that the Viceroy is blind to the present serious situation and the realities facing him, and is entirely playing into the hands of the Congress, and is appeasing them in complete disregard of the Muslim League and other organisations and elements in the national life of the country.....In these

circumstances, it is obvious that no representative of the Muslim League will participate in the Constituent Assembly and the Bombay resolution of the League Council passed on July 29 stands.....I want to make it clear that no representative of the Muslim League should attend the Constituent Assembly summoned to meet on the ninth of December."[28]

It was now quite clear that the Cabinet Mission Plan envisaging a united India was going to be a failure.

Prime Minister Attlee made a last-minute attempt to save the situation. He invited two representatives each of the Congress and the League and, in addition, the Sikh member of the Interim Government, to go to London for further talks on the Constituent Assembly. At the conclusion of the conversations, the British Government issued a statement on 6th December, 1946.

The main difficulty had arisen over the interpretation of paragraphs 15(5), 19(V) and 19(VIII) of the Cabinet Mission's statement of 16th May, relating to meetings in sections. The statement of 6th December clarified this point. It said :—

"The Cabinet Mission have throughout maintained the view that decisions of the sections should, in the absence of an agreement to the contrary, be taken by a simple majority vote of the representatives in the sections. This view has been accepted by the Muslim League, but the Congress have put forward a different view. They have asserted that the true meaning of the statement, read as a whole, is that the Provinces have the right to decide both as to grouping and as to their own constitutions.

"His Majesty's Government have had legal advice which confirms that the statement of May 16 means what the Cabinet Mission have always stated was their intention. This part of the statement, as so interpreted, must, therefore, be considered an essential part of the scheme of May 16 for enabling the Indian people to formulate a constitution which His Majesty's Government would be prepared

to submit to Parliament. It should, therefore, be accepted by all parties in the Constituent Assembly.

"It is, however, clear that other questions of interpretation of the statement of May 16 may arise and His Majesty's Government hope that, if the Council of the Muslim League are able to participate in the Constituent Assembly, they will also agree, as have the Congress, that the Federal Court should be asked to decide matters of interpretation that may be referred to them by either side and will accept such a decision, so that the procedure both in the Union Constituent Assembly and in the sections may accord with the Cabinet Mission's Plan .....

"There has never been any prospect of success for the Constituent Assembly except upon the basis of the agreed procedure. Should the constitution come to be framed by a Constituent Assembly in which a large section of the Indian population had not been represented, His Majesty's Government could not, of course, contemplate—as the Congress have stated they could not contemplate—forcing such a constitution upon any unwilling parts of the country."[29]

This statement, thus, made the grouping of Provinces compulsory, thus nullifying sub-paragraph (5) of paragraph 15 of the statement of 16th May, 1946, that "Provinces should be free to form groups." The fact that this interpretation alone was acceptable to the British Government was enough to emphasise the point that any constitution based on any other interpretation would not be acceptable to the British Government. Finally, there was an encouragement to an unwilling 'part' (the word Province was not, perhaps deliberately, used) to demonstrate its unwillingness by refusing to attend the Constituent Assembly, so that the constitution framed by that Assembly would not apply to it. Dr. Pattabhi Sitaramayya says: "This virtually reverts to the statement of Lord Linlithgow of August 8, 1940, which was repeated in Parliament by Mr. Amery on August 14th, 1940, where it was said that no

constitution could be enforced on 100 million Muslims."[30] In the present statement, however, there was a relieving feature. The expression, "parts of the country", might be rightly taken to mean even parts of the Provinces. At least the Hindus of Bengal and the Hindus and Sikhs of the Punjab, not without Congress encouragement perhaps, banked on such an interpretation; and very soon, in these two Provinces, the non-Muslims started strong agitations for the partition of the Provincial territories into contiguous Muslim-majority areas and non-Muslim-majority areas. Among the different schemes of partition, the Rajaji formula, as distinguished from the Lahore Resolution and the Cripps Proposal, seemed now, when partition of India appeared to be inevitable, to hold the attention of the non-Muslims.

When the Constituent Assembly met on 9th December, 1946, the League boycotted it. The States, again, were unrepresented as the question of the States' participation in the Constituent Assembly had not been settled. Still, the Constituent Assembly began its work in right earnest.

On 16th December, Lord Pethick-Lawrence announced in the House of Lords that the British Government would stand by its interpretation of the statement of 16th May and that it would by no means depart from it even if the Congress appealed to the Federal Court.[31]

The Congress was now on the horns of a dilemma. If it did not accept the statement of 6th December, it would be ensuring two Constituent Assemblies. On the other hand, if it accepted the statement, it was afraid that Mr. Jinnah might demand more. The Congress Working Committee deeply regretted that the British Government had made such a statement which, "in several respects," went "beyond the original statement." It was of opinion that the interpretation put by the British Government was not in conformity with Provincial autonomy which was one of the fundamental bases of the scheme proposed in the statement of May 16. Still, it was anxious to avoid anything that might come in the

way of the successful working of the Constituent Assembly and was prepared to do anything in its power to seek and obtain the largest measure of co-operation, provided that no fundamental principle was violated. The Committee, however, decided to leave the matter to the A.I.C.C.[32]

The All-India Congress Committee met on 5th and 6th January, 1947, to consider the matter, referred to it by the Congress Working Committee, to avoid anything that might come in the way of the successful working of the Constituent Assembly. It was extremely eager to make the Constituent Assembly work. So, it advised action in accordance with the interpretation of the British Government in regard to the procedure to be followed in the sections. It was of opinion, however, that this must not involve any compulsion on a Province by another Province and that the rights of the Sikhs in the Punjab must not be jeopardised. Further, in the event of any attempt at such compulsion, a Province or part of a Province should have the right to take such action as might be necessary in order to give effect to the wishes of the people concerned.[33] In this resolution, the Congress unequivocally declared that even a part of a Province should have the right of self-determination. It seems that the Congress now accepted the view that, though it should try its utmost for a united India, it must, when compelled to accept partition of India, demand a division of Bengal and the Punjab as well. Needless to say, the Congress also indicated that Bengal should not compel Assam nor should Sind and the Punjab compel the N.W.F.P to accept any constitution against their will.

Consistently with the policy of the Congress Party, the Constituent Assembly of India went on slowly with its work. The most important work it did in the beginning was to pass what is known as the Objectives Resolution on 22nd January, 1947. The resolution runs as follows :—

"This Constituent Assembly declares its firm and solemn resolve to proclaim India as an Independent Sovereign Republic and to draw up for her future governance a Constitution ;

"Wherein the territories that now comprise British India, the territories that now form the Indian States, and such other parts of India as are outside British India and the States as well as such other territories as are willing to be constituted into the Independent Sovereign India, shall be a Union of them all ; and

"Wherein the said territories, whether with their present boundaries or with such others as may be determined by the Constituent Assembly and thereafter according to the Law of the Constitution, shall possess and retain the status of autonomous Units, together with residuary powers, and exercise all powers and functions of government and administration, save and except such powers and functions as are vested in or assigned to the Union or as are inherent or implied in the Union or resulting therefrom ; and

"Wherein all power and authority of the Sovereign Independent India, its constituent parts and organs of government, are derived from the people ; and

"Wherein shall be guaranteed and secured to all the people of India justice—social, economic and political : equality of status, of opportunity, and before the law : freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and morality ; and

"Wherein adequate safeguards shall be provided for minorities, backward and tribal areas and depressed and other backward classes ; and

"Whereby shall be maintained the integrity of the territory of the Republic and its sovereign rights on land, sea and air according to justice and the law of civilised nations ; and

"This ancient land attain its rightful and honoured place in the world and make its full and willing contribution to the promotion of world peace and the welfare of mankind."[34]

The resolution of the A.I.C.C. and the resolutions of the Constituent Assembly made the Muslim League more adamant than ever not to join the Constituent Assembly. The Working

Committee of the Muslim League met at Karachi on 31st January, 1947, and resolved not to participate in the deliberations of the Constituent Assembly. It criticised the decision of the A.I.C.C. and took the view that the Congress had rejected "this final appeal of His Majesty's Government to accept the correct interpretation of the fundamental procedure of the Cabinet Mission's statement of May16." It referred to the resolutions and decisions taken in the two sessions of the Constituent Assembly and remarked that, by these resolutions and decisions, the Congress had "converted the Constituent Assembly into a body of its own conception, have destroyed all fundamentals of the statement of May 16 and every possibility of compromise on the basis of the Cabinet Mission's constitutional plan." The Working Committee, therefore, called upon the British Government to declare that "the constitutional plan formulated by the Cabinet Mission as announced on May 16 has failed because the Congress, after all these months of efforts, have not accepted the statement of May 16, 1946, nor have the Sikhs nor the Scheduled Castes."

The Working Committee of the Muslim League also stated : "The proposals of May 16 could only be given effect to and carried out if the two major parties agreed to accept them. The Congress had not and have not accepted and do not accept them although the Muslim League had accepted by their resolution the statement of May 16, 1946, as far back as June 6, 1946. But, in view of the fact that the Congress refused to accept the proposals *in toto* and unequivocally, the Muslim League had to withdraw its acceptance on July 29, 1946."

The Working Committee of the Muslim League, therefore, emphatically declared that "the elections to and thereafter the summoning of the Constituent Assembly....was *ab initio* void, invalid and illegal as not only the major parties had not accepted the statement but even the Sikhs and Scheduled Castes had also not done so and that the continuation

of the Constituent Assembly and its proceedings and decisions are *ultra vires*, invalid and illegal, and it should be forthwith dissolved."[35]

About the time this resolution of the Muslim League Working Committee was passed, there was a demand by the non-League members of the Interim Government that the Muslim League members should resign.[36]

About three weeks after the Karachi resolution, Prime Minister Attlee announced in a statement before Parliament on 20th February, 1947, that the British would leave India by June, 1948.

The statement said, *inter alia* :—

"6. It is with great regret that His Majesty's Government find that there are still differences among Indian parties which are preventing the Constituent Assembly from functioning as it was intended that it should. It is of the essence of the plan that the Assembly should be fully representative.

"7. His Majesty's Government desire to hand over their responsibility to authorities established by a constitution approved by all parties in India in acordance with the Cabinet Mission's plan, but unfortunately there is at present no clear prospect that such a constitution and such authorities will emerge. The present state of uncertainty is fraught with danger and cannot be indefinitely prolonged. His Majesty's Government wish to make it clear that it is their definite intention to take the necessary steps to effect the transference of power into responsible Indian hands by a date not later than June 1948.....

"10. (In the Cabinet Mission Plan) His Majesty's Government ..... agreed to recommend to Parliament a constitution worked out, in accordance with the proposals made therein, by a fully representative Constituent Assembly. But, if it should appear that such a constitution will not have been worked out by a fully representative Assembly before the time mentioned in paragraph 7 (i.e., June, 1948), His Majesty's

Government will have to consider to whom the powers of the Central Government in British India should be handed over, on the due date, whether as a whole to some form of Central Government for British India, or in some areas to the existing Provincial Governments, or in such other way as may seem most reasonable and in the best interests of the Indian people.

"11. Although the final transfer of authority may not take place until June 1948, preparatory measures must be put in hand in advance. It is important that the efficiency of the civil administration should be maintained and that the defence of India should be fully provided for. But inevitably, as the process of transfer proceeds, it will become progressively more difficult to carry out to the letter all the provisions of the Government of India Act, 1935. Legislation will be introduced in due course to give effect to the final transfer of power."[37]

Thus, the statement announced June, 1948, as the final date of departure of the British from India and suggested the possibility of a partition of the country in case the Muslim League continued its boycott of the Constituent Assembly.

The statement also reiterated the British Government's policy of bringing to an end the Paramountcy of the Crown in relation to the States.

On 5th March, 1947, while moving a resolution for the approval by the House of Commons of the British Government's policy contained in the statement of 20th February, Sir Stafford Cripps explained this policy as follows :—

When the Muslim League finally decided not to join the Constituent Assembly, even after the League had joined in the Interim Government, the non-League members of the Interim Government demanded that the League members should withdraw.

The British Government did not think it wise to "precipitate a decision" upon it so long as there was any hope of

all parties meeting in the Constituent Assembly. It was in these circumstances that the British Government had to consider what action it should take to smooth out the difficulties of the transfer of power in India.

There were two alternatives : the first was that British control in India could be strengthened "on the basis of expanded personnel in the Secretary of State's services and considerable reinforcement of British troops." Such a policy would entail a definite decision that British authority would remain in India for at least 15 to 20 years more, because any short-period scheme would not be practicable. The second alternative was to "attempt to persuade Indians to come together while at the same time warning them that there was a limit of time during which" the British Government was prepared to maintain its responsibility while awaiting agreement. "One thing that was quite obviously impossible was to decide to continue British Government's responsibility indefinitely and, indeed," against its own wishes, "into a period when it had not the power to carry it out" on account of the depletion of troops. The British Government, therefore, ruled out the first alternative. It would be politically impracticable, both from national and international points of view, and would arouse bitter animosity of all parties in India. Even if the British Government decided to make available extra British troops that would be required to meet disturbances in India, the British people would not have liked it nor would the Indian communities, and the British Government would have to rule India through the Governor-General and the Governors without any representative Indian Government. The British Government, therefore, ruled out the first alternative as both undesirable and impracticable. It was left with the second alternative and set a time limit beyond which it would not take responsibility for the government of India.

The fixing of the time limit might also induce the Indians to sink their differences and come together to form a united Government of India.

The fixing of the date constituted, therefore, "an honest and frank acceptance of the facts of the situation" on the part of the British Government. The British Government had no alternative but to "specify some terminal date beyond which" it should not continue its responsibilities for Indian administration. At the same time, it "took the view that the fixing of a definite term during which the Indian communities must either come to an agreement to set up a united independent Government for all India or else break up the country into smaller or weaker units should provide the strongest inducement to them to sink their differences and to act together."

The statement also envisaged a partition of the country. Sir Stafford Cripps explained: "We shall....do all in our power to encourage the formation of such a Government as was put forward by the Cabinet Mission, and in accordance with the procedure which they suggested. But, if this proves impossible of realisation and there is no such Central Government in being or in prospect when the time comes for us to take a decision, then we shall be forced to choose, in the light of circumstances existing at the time of our decision, the most appropriate Government or Governments to which to hand over power.....It might be then existing Provincial Governments, as suggested in the offer of 1942, or it might be some form of combined Government for parts of India, depending upon what seems best and most helpful for the future of India.....

"In our statement of December 6, we stressed the fact that, if a large section of the Indian population had not been fully represented in the Constituent Assembly, we could not accept the forcing of unwilling Provinces into a united Indian Government if, in the making of the Constitution, they had not been fully represented. To that principle, which has the assent of the Congress we understand, we adhere, and if it should eventuate that a large group of Provinces—but not all— agree upon the form of constitution, then it may be

necessary to hand over separately in areas which have not been fully represented."[38]

In opposing the motion, Mr. Churchill said that, not only had the Labour Government departed from the Cripps Proposal to which he and his party were committed, it had also made serious mistakes in handling the Indian problem. "First, there was the attempt to formulate a Constitution and press it upon the Indians instead of leaving to the Indians the duty of framing their own Constitution. Secondly, there was the summoning of a so-called Constituent Assembly upon an altogether inadequate and unrepresentative franchise. The third mistake was the handing over of the Government to Mr. Nehru"—said he.[39]

The opposition amendment refusing to accept the British Government's policy of transferring power from Britain to India by June, 1948, was defeated in the House of Commons on 6th March, 1947. The Government's policy was, therefore, approved.

Simultaneously with the announcement of the date of the transfer of power, Prime Minister Attlee told the House of Commons that Lord Wavell's tenure of office had been terminated and that Lord Mountbatten had been appointed Governor-General of India. He was entrusted with the task of transferring to Indian hands the responsibility for the government of British India in a manner that would best ensure the future happiness and prosperity of India.[40]

As to the reasons for Lord Wavell's termination of office, the Prime Minister merely said that the appointment of Lord Wavell had been a war-time appointment and that, in the new phase of India, it was suitable to make a new appointment.[41] The Government was criticised by Mr. Churchill for this change. It appears that the Labour Government was not satisfied with the policy which Lord Wavell had been pursuing in India.

The Congress Party received the statement of 20th February with grace. The Congress Working Committee passed

a resolution welcoming the declaration, made on behalf of the British Government, of its definite intention to transfer power finally by a date not later than June, 1948. The resolution referred to the Congress acceptance of the Cabinet Mission's scheme of 16th May, 1946, and of the interpretation put upon it by the British Government on 6th December, 1946. It was anxious that the Constituent Assembly should expedite its work so that the constitution for an Indian Union and its constituent Units should be finally prepared and given effect to well within the stated period to facilitate the final transfer of power. At the same time, it was anxious to avoid all compulsion. For this reason, it pointed out : "It has been made clear that the constitution framed by the Constituent Assembly will apply only to those areas which accept it. It must also be understood that any Province or part of a Province which accepts the constitution and desires to join the Union cannot be prevented from doing so."

In view of the developments which had been leading to a swift transfer of power in India, the Working Committee of the Congress invited the Muslim League to nominate representatives to meet the representatives of the Congress in order to consider the situation that had arisen and to devise means to meet it.[42] The invitation, however, failed to effect any agreement between the two parties.

As division of India became quite probable, the dispute between the Congress and the League took a different turn. The Congress had to resign itself to partition. It was never inclined to compel unwilling parts of the country to remain united and there was no doubt that a great many members of the Constituent Assembly elected from some parts of the country refused to enter the Assembly. But the Congress now insisted on the application of the same principle to the unwilling Provinces and also parts of Provinces as well. The Muslim League, however, protested vehemently against the partition of the Provinces and the non-inclusion of the unwilling Provinces of Assam and the N.W.F.P. in the proposed Pakistan.

When the British Government's statements of 6th December, 1946, and 20th February, 1947, indicated that India might possibly be divided, and when the statement of 20th February also fixed a definite time limit before which British power would be withdrawn, the Muslim League strongly intensified its efforts for capturing office in those Provinces which it wanted to include into Pakistan but which were under non-League Ministries.

In terms of the statement of 20th February, 1947, if a fully representative Constituent Assembly did not function and reach agreement by June, 1948, power might conceivably be transferred, in some cases, to Provincial Governments. That is to say, power might possibly be transferred to the Congress Government in the N.W.F.P. and the non-League coalition Government in the Punjab besides the League Governments in Bengal and Sind. In such an event, the League would not get all it wanted. So, the League made more vigorous attempts to replace the non-League Ministries in the N. W.F.P. and the Punjab, "so that when the British would transfer power not later than June, 1948, the League Ministries would be recognised as successor Governments."[43] In Assam also, the League tried to dislodge the Congress Ministry and have a Provincial Government sympathetic to League ambitions. The League did not care to consider that power might be transferred also "in such other way as may seem most reasonable and in the best interests of the Indian people."

On 30th March, 1947, the Assam Provincial Muslim League decided to start a Civil Disobedience movement. The Provincial Government brought the situation under control. So, the League failed.[43]

In the N.W.F.P. also, the League failed in its strategy. A Congress Ministry, with Dr. Khan Sahib as Chief Minister, was in office there. Dr. Khan Sahib and his brother, Khan Abdul Gaffar Khan (a very prominent Congressman) were influential leaders in the Province. Ever since the publication of the statement of 16th May, 1946, the Khan brothers

had been saying that the N.W.F.P. would join any Group which would give the Pathans (i.e., the people of the N.W.F.P.) "full freedom of development." But the League tried to oust Congress influence and compel the Province to group itself unconditionally with section B Provinces. The League had tried to stir up disturbances in the N.W.F.P. immediately after the Bihar riots. It did not succeed. Disturbances were continued with renewed vigour in February and March, 1947. But the League failed to seize power.[43]

In the Punjab, the situation had never been happy since the League's Direct Action resolution of July, 1946. The Muslim League had been seriously disturbing law and order in the Province. Just after the statement of 20th February, 1947, the disturbances created by the League agitators assumed dangerous proportions. The Chief Minister, Malik Khizr Hyat Khan, hesitated to take action against the League law-breakers. He, therefore, alienated most of the Hindu and Sikh supporters of the coalition Government. Faced with this critical situation, the Chief Minister resigned on 2nd March, 1947, and, on 5th March, the Governor took over the administration under Section 93 of the Government of India Act, 1935. The Province was under Governor's rule till the withdrawal of British power. So, the Muslim League could not capture office. On the other hand, just after the resignation of the Ministry, the Hindus and the Sikhs observed Anti-Pakistan Day on 4th March as they were afraid of the advent of a League Ministry. Frustrated in its attempt to capture office, the League became furious, and the protests of the League demonstrators took a violent form.[43] The Anti-Pakistan demonstrators also did not remain idle. Then began widespread communal rioting in various parts of the Province which, rising in a *crescendo*, soon caused a holocaust.

CHAPTER XIII

PARTITION AND INDEPENDENCE

The object of the appointment of Lord Mountbatten had been clearly stated in a letter written to him by Mr. Attlee before he left for India. The letter was by way of an amplification of the Governor-General's Instrument of Instructions, which itself was not changed as its provisions were thought to be quite consistent with the British Government's policy. The letter said that the "definite objective of the British Government was to obtain a (united) Government, if possible within the British Commonwealth, through the medium of a Constituent Assembly set up and run in accordance with the Cabinet Mission Plan," and that, without the acceptance of the Plan by both the major parties, it could not be operative but there could be no "question of compelling either of the parties to accept the Plan." If, by 1st October, 1947, Lord Mountbatten saw no hope of reaching any settlement on the basis of a united Government of India, he was to report to the British Government on the steps to be taken for the transfer of power. Further, "in his relations with the States," he was "to persuade the Rulers of" those "States whose political progress was slow to go forward" towards the introduction of "more democratic government" and towards the making of "fair and just arrangements with the leaders of British India regarding their future relationships." Moreover, in matters of administration of India, there should be "closest co-operation with Indians." Finally, as the "transfer of power was to be in accordance with Indian defence requirements....he was to impress upon the Indian leaders the importance of avoiding a break in the continuity of the Indian Army and to point out the need for collaboration in the security of the Indian Ocean."[1]

With these, 'instructions' Lord Mountbatten came to India.

He reached New Delhi on 22nd March, 1947, and was sworn in on the 24th.[2]

There were two distinct problems which faced him. The one was how to transfer power to British India and the other was how to fit the Indian States into the picture.

He dealt first with the problem of British India and then with that of the States.

Though Lord Mountbatten had come out to India with the June-1948 time limit, he thought that it was a far-off date.[3] The political situation was bad enough to demand an early solution. There was no chance that the Congress and the League would ever come to any agreement in order to work out the Cabinet Mission Plan. Lord Mountbatten began a series of discussions with party-leaders and other leading public men. Mr. Jinnah was adamant over his demand for Pakistan. The Congress had by now agreed to the principle of Pakistan but had insisted on a partition of the Provinces affected (in order to avoid compulsion) if Pakistan was unavoidable.

So, by the compulsion of circumstances, Lord Mountbatten was led to deal with the mechanics of partition. He summoned a Governors' Conference on 15th April, 1947, at New Delhi, to discuss his own plan, thought out in the light of the then prevailing political opinions in the country, regarding the constitutional problem.[4] The main principles of the plan were : "that the responsibility for partition," if it came, was "to rest fairly upon the Indians themselves ;" "that the Princes, generally speaking," should "have the right to determine their own future ;" that "Bengal and the Punjab were to be notionally partitioned for voting purposes ;" that "the predominantly Moslem district of Sylhet in Assam" was "to be given the option of joining the Moslem Province created by a partitioned Bengal ;" and that "general elections" were "to be held in the North-West Frontier Province."[5]

Lord Mountbatten told the Governors that June, 1948,

was the date before which the British would depart from India. The Conference also discussed the implications of partition.[6] It was now clear that partition was inevitable.

Some two weeks after this, Mr. Jinnah laid a strong emphasis on his ambitious scheme of Pakistan comprising all the Provinces included in sections B and C of the Cabinet Mission Plan. Dr. Rajendra Prasad's rejoinder drew attention to the fact that the Muslim League's Lahore resolution had demanded only the Muslim-majority areas to be the national home of the Muslims.[7]

On 6th May, 1947, Gandhiji and Mr. Jinnah met to discuss the question of the division of India.[8] Inevitably, the discussion ended in failure. While Mr. Jinnah was bent on his Pakistan with six whole Provinces, Gandhiji was not in favour of partition at all. The Congress, however, had already committed itself to partition, if unavoidable. The Congress position in this matter had been fully explained on 28th April, 1947, in the Constituent Assembly by Dr. Rajendra Prasad in the following manner :—

"While we have accepted the Cabinet Mission's statement of May 16, 1946, which contemplates a Union of the different Provinces and States within the country, it may be that the Union may not comprise all Provinces. If that unfortunately comes to pass, we shall have to be content with a constitution for a part of it. In that case, we can and should insist that one principle will apply to all parts of the country and no constitution will be forced upon any unwilling part of it. This may mean not only the division of India, but the division of some of the Provinces. For this we must be prepared and the Assembly may have to draw up a constitution based on such a division".[9]

This being the case, it was evident that the Cabinet Mission Plan for a united India was doomed to die.

Shortly after this, Lord Mountbatten was summoned to London for consultation.[10] He left India on 18th May. Just before leaving, he sought the views of selected leaders

of the Congress, the League and the Sikhs on a draft Heads of Agreement on the basis of which he would suggest new steps to be taken by the British Government for a speedy transfer of power. The draft Heads of Agreement contained the outline of a new constitutional Plan based on the possibility of partition in accordance with the votes of the people or their representatives. It envisaged one or two independent states to be created by the grant of Dominion Status on the basis of the Government of India Act, 1935, with modifications. If, however, one Dominion was to be created, power would be transferred to the then Central Government. Further, there might be a common Governor-General for both the Dominions. Finally, if there was partition, Armed Forces were to be divided according to the territorial basis of recruitment.[11] Attempts, were made also to get the Plan, proposed in the Heads of Agreement, accepted by the leaders of the Congress and the League. But no definitive agreement could be secured.[12] On the other hand, Mr. Jinnah soon introduced fresh complications by putting forward some further demands. During the Viceroy's absence, he came out with the demand for a corridor through northern India to link western and eastern Pakistan.[13]

When Lord Mountbatten returned to Delhi with the Plan as approved by the British Government, he was anxious that the Plan should not be disturbed by Gandhiji who, in his prayer meetings, had been speaking against partition. Lord Mountbatten was also much vexed to learn of the latest demand of Mr. Jinnah. He knew how to conciliate Mr. Jinnah. "He was armed with a vital message, which he could use at his discretion, from Mr. Churchill to Mr. Jinnah which stated that it was nothing less than a matter of life and death for Mr. Jinnah to accept the Plan.[14]

On 2nd June, 1947, a Leaders' Conference was held at the Viceroy's House, New Delhi. Pandit Nehru, Sarder Patel, Mr. Jinnah, Mr. Liaquat Ali Khan, Sardar Abdur Rab Nishtar, Acharya Kripalani and Sardar Baldev Singh met the

Viceroy. Lord Mountbatten "made his last formal attempt to resuscitate the Cabinet Mission Plan," and Mr. Jinnah "for the last time formally rejected it." The Viceroy then explained the dfficulty of partition. He said that the Congress "did not agree to the principle of partition of India but, if this" was inevitable, it had "insisted on the partition" of certain "Provinces to avoid coercion of Moslem or Hindu-majority areas, while, on the other hand, Mr. Jinnah resisted the partition of Provinces but demanded the division of India." Then, the leaders were given copies of the Plan.[15]

Lord Mountbatten asked the leaders to accept the proposals contained in the Plan in a peaceful manner and wanted to ascertain the reaction of the Congress, the Muslim League and the Sikh$_s$ without delay.[16] The Viceroy also met the Chancellor of the Chamber of Princes and the States' Negotiating Committee.[17] The Congress Working Committee and the League Working Comittee considered the proposals on Monday night, the 2nd of June. The Congress Working Committee approved the proposals ; and an emergency meeting of the All-India Congress Committee was convened with a view to getting the Working Committee's decision ratified. The League Working Committee felt unable to commit the League formally, but the leaders indicated their general approval and the League Council also was called to meet on 9th June to consider the Plan. On 3rd June, the representatives of the Congress, the League and the Sikhs informed the Viceroy that they had accepted the proposals.[18]

The Plan was announced in a statement made on 3rd June 1947.[19] It contained a detailed scheme for ascertaining the wishes of the people on the issue of partition. The British Government would transfer power on the basis of the verdict of the people.

The statement said,[19] *inter alia* :—

"3. It has always been the desire of His Majesty's Government that power should be transferred in accordance with the wishes of the Indian people themselves. This task would have

been greatly facilitated if there had been agreement among the Indian political parties. In the absence of such an agreement, the task of devising a method by which the wishes of the Indian people can be ascertained has devolved on His Majesty's Government. After full consultation with political leaders in India, His Majesty's Government have decided to adopt for this purpose the plan set out below. His Majesty's Government wish to make it clear that they have no intention of attempting to frame any ultimate Constitution for India ; this is a matter for the Indians themselves. Nor is there anything in this plan to preclude negotiations between communities for a united India.

"The Issues To Be Decided.

"4. It is not the intention of His Majesty's Government to interrupt the work of the existing Constituent Assembly. . .(But) it is clear that any Constitution framed by this Assembly cannot apply to those parts of the country which are unwilling to accept it. His Majesty's Government are satisfied that the procedure outlined below embodies the best practical method of ascertaining the wishes of the people of such areas on the issue whether their Constitution is to be framed—(a) in the existing Constituent Assembly ; or (b) in a new and separate Constituent Assembly consisting of the representatives of those areas which decide not to participate in the existing Constituent Assembly.

"When this has been done, it will be possible to determine the authority or authorities to whom power should be transferred.

"Bengal And The Punjab.

"5. The Provincial Legislative Assemblies of Bengal and the Punjab (excluding the European members) will, therefore, each be asked to meet in two parts, one representing the Muslim-majority districts and the other the rest of the Province.....

"6. The members of the two parts of each Legislative

Assembly sitting separately will be empowered to vote whether or not the Province should be partitioned. If a simple majority of either part decides in favour of partition, division will take place and arrangements will be made accordingly.

"7. Before the question as to the partition is decided, it is desirable that the representatives of each part should know in advance which Constituent Assembly the Province as a whole would join in the event of the two parts subsequently deciding to remain united. Therefore, if any member of either Legislative Assembly so demands, there shall be held a meeting of all members of the Legislative Assembly (other than Europeans) at which a decision will be taken on the issue as to which Constituent Assembly the Province as a whole would join if it were decided by the two parts to remain united.

"8. In the event of partition being decided upon, each part of the Legislative Assembly will, on behalf of the areas they represent, decide which of the alternatives in paragraph 4 above to adopt.

"9. For the immediate purpose of deciding on the issue of partition, the members of the Legislative Assemblies of Bengal and the Punjab will sit in two parts according to Muslim-majority districts (as laid down in the Appendix)[20] and non-Muslim-majority districts. This is only a preliminary step of a purely temporary nature as it is evident that for the purposes of final partition of these Provinces a detailed investigation of boundary questions will be needed ; and as soon as a decision involving partition has been taken for either Province, a Boundary Commission will be set up by the Governor-General, the membership and terms of reference of which will be settled in consultation with those concerned. It will be instructed to demarcate the boundaries of the two parts of the Punjab on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims. It will also be instructed to take into account other factors. Similar instructions will be given to the Bengal Boundary Commission. Until the report of a Boundary Commission

has been put into effect, the provisional boundaries indicated in the Appendix will be used.

"Sind.

"10. The Legislative Assembly of Sind (excluding the European members) will at a special meeting also take its own decision on the alternatives in paragraph 4 above.

"North-West Frontier Province.

"11. The position of the North-West Frontier Province is exceptional. Two of the three representatives of this Province are already participating in the existing Constituent Assembly. But it is clear, in view of its geographical situation, and other considerations, that, if the whole or any part of the Punjab decides not to join the existing Constituent Assembly, it will be necessary to give the North-West Frontier Province an opportunity to reconsider its position. Accordingly, in such an event, a referendum will be made to the electors of the present Legislative Assembly in the North-West Frontier Province to choose which of the alternatives mentioned in paragraph 4 above they wish to adopt. The referendum will be held under the aegis of the Governor-General and in consultation with the Provincial Government.

"British Baluchistan.

"12. British Baluchistan has elected a member but he has not taken his seat in the existing Constituent Assembly. In view of its geographical situation, this Province will also be given an opportunity to reconsider its position and to choose which of the alternatives in pragraph 4 above to adopt. His Excellency the Governor-General is examining how this can most appropriately be done.

"Assam.

"13. Though Assam is predominantly a non-Muslim Province, the district of Sylhet which is contiguous to Bengal is predominantly Muslim. There has been a demand that, in the event of the partition of Bengal, Sylhet should be amal-

gamated with the Muslim part of Bengal. Accordingly, if it is decided that Bengal should be partitioned, a referendum will be held in Sylhet district, under the aegis of the Governor-General and in consultation with the Assam Provincial Government, to decide whether the district of Sylhet should continue to form part of the Assam Province or should be amalgamated with the new Province of Eastern Bengal, if that Province agrees. If the referendum results in favour of amalgamation with Eastern Bengal, a Boundary Commission with terms of reference similar to those for the Punjab and Bengal will be set up to demarcate the Muslim majority areas of Sylhet district and contiguous Muslim majority areas of adjoining districts, which will then be transferred to Eastern Bengal. The rest of the Assam Province will in any case continue to participate in the proceedings of the existing Constituent Assembly.

"Representation In Constituent Assemblies.

"14. If it is decided that Bengal and the Punjab should be partitioned, it will be necessary to hold fresh elections to choose their representatives on the scale of one for every million of population according to the principle contained in the Cabinet Mission's Plan of 16th May, 1946. Similar elections will also have to be held for Sylhet in the event of its being decided that this district should form part of East Bengal. The number of representatives to which each area would be entitled is as follows :—

Province	General	Muslims	Sikhs	Total
Sylhet District	1	2	Nil	3
West Bengal	15	4	Nil	19
East Bengal	12	29	Nil	41
West Punjab	3	12	2	17
East Punjab	6	4	2	12

"15. In accordance with the mandates given to them, the representatives of the various areas will either join the exist-

ing Constituent Assembly or form the new Constituent Assembly.

"Administrative Matters.

"16. Negotiations will have to be initiated as soon as possible on administrative consequences of any partition that may have been decided upon :—

(a) Between the representatives of the respective successor authorities about all subjects now dealt with by the Central Government, including Defence, Finance and Communications.

(b) Between different successor authorities and His Majesty's Government for treaties in regard to matters arising out of the transfer of power.

(c) In the case of Provinces that may be partitioned as to administration of all provincial subjects such as the division of assets and liabilities, the police and other services, the High Courts, provincial institutions, etc.

"The Tribes Of The North-West Frontier.

"17. Agreements with tribes of the North-West Frontier of India will have to be negotiated by the appropriate successor authority.

"Necessity For Speed.

"19. In order that the successor authorities may have time to prepare themselves to take over power, it is important that all the above processes should be completed as quickly as possible. To avoid delay, the different Provinces or parts of Provinces will proceed independently as far as practicable within the conditions of this Plan. The existing Constituent Assembly and the new Constituent Assembly (if formed) will proceed to frame Constitutions for their respective territories : they will, of course, be free to frame their own rules.

"Immediate Transfer Of Power.

"20. The major political parties have repeatedly emphasised

their desire that there should be the earliest possible transfer of power in India. With this desire His Majesty's Government are in full sympathy, and they are willing to anticipate the date of June 1948 for the handing over of power by the setting up of an independent Indian Government or Governments at an even earlier date. Accordingly, as the most expeditious, and indeed the only practicable, way of meeting this desire, His Majesty's Government propose to introduce legislation during the current session for the transfer of power this year on a Dominion Status basis to one or two successor authorities according to the decisions taken as a result of this announcement. This will be without prejudice to the right of the Indian Constituent Assemblies to decide in due course whether or not the part of India in respect of which they have authority will remain within the British Commonwealth."

After the announcement of the Plan, the Muslim League Council passed a resolution on 9th June, 1947, authorising its President to accept the Plan as a compromise (because it did not agree to the proposal for partition of Bengal and the Punjab) and empowering him to take all decisions which might be necessary in that connection.[21] The decision was forwarded to the Viceroy on 10th June.[22]

On 15th June, the All-India Congress Committee approved and endorsed the resolution, recommended by the Working Committee, welcoming the decision of the British Government to transfer power completely to the Indian people without delay and accepting the proposals contained in the announcement of 3rd June.[23]

A conference of the Sikhs, held at Lahore in the first week of June, passed a resolution accepting the 3rd June Plan. At the same time, it recorded its view that "no partition of the Punjab which does not preserve the solidarity and integrity of the Sikh community will be acceptable to the Sikhs."[24]

In Bengal, there was a last-minute attempt to avoid

partition. This was the Suhrawardy-Sarat Bose Plan for the future of Bengal. The main features of this Plan were the following :—

(1) Bengal was to be a free state. The free state of Bengal was to decide its relations with the rest of India.

(2) The constitution of the free state of Bengal was to provide for election to the Bengal Legislature on the basis of joint electorate and adult franchise, with reservation of seats proportionate to the population amongst the Hindus and the Muslims. The seats as between the Caste Hindus and the Scheduled Castes were to be distributed amongst them in proportion to their population, or in such manner as might be agreed to by them.

(3) On the free state of Bengal being created by an announcement of the British Government, the Bengal Ministry was to be dissolved, and a new Interim Ministry brought into being, consisting of an equal number of Muslims and Hindus (including the Scheduled Caste Hindus) but excluding the Chief Minister. In this Ministry, the Chief Minister was to be a Muslim and the Home Minister a Hindu.

(4) Until the new constitution was inaugurated, the Hindus (including the Scheduled Castes) and the Muslims were to have an equal share in the services including the military and the police. The services were to be manned by Bengalees.

(5) A Constituent Assembly composed of 30 persons (16 Muslims and 14 non-Muslims) was to be elected by the Muslim and non-Muslim members of the Legislautre respectively, excluding the Europeans.[25]

The plan for a free state of Bengal could not materialise because neither the Congress nor the Muslim League favoured it. Lord Mountbatten also cold-shouldered the idea.

Now that the 3rd June Plan was generally accepted by the parties concerned, after long-continued bickerings in respect

of the Cabinet Mission Plan, the points of its departure from the Cabinet Mission Plan may be analysed.

The Cabinet Mission Plan was one for a united India. There was to be a single Constituent Assembly charged with the task of framing a constitution for a Union of India.[26] In the 3rd June Plan, the idea of a single Constituent Assembly for a united India was practically given up. Any constitution framed by the then existing Constituent Assembly could not apply to unwilling parts of the country. So, there might be "a new and separate Constituent Assembly consisting of the representatives of those areas which decide not to participate in the existing Constituent Assembly." Whether there would be another Constituent Assembly would depend on the verdict of the people.[27]

Under the Cabinet Mission Plan, British power was to be transferred to one single authority.[28] But, under the 3rd June Plan, power might be transferred to two authorities.[29]

Under the Cabinet Mission Plan, the action marking the transfer of power would be taken after the Constituent Assembly had finished its work.[30] But, under the 3rd June Plan, power would be transferred immediately, even earlier than the dead-line of June, 1948.[31] This definite time limit brought the Indian contestants for power face to face with the real problems to be created by the immediate withdrawal of British force. And, in fact, it was this prospect that put an end to all sorts of wordy warfare and compelled the Indian leaders to accept the 3rd June Plan.

Under the Cabinet Mission Plan, certain conditions precedent (e.g., adequate provisions for the protection of minorities) were attached to the cession of sovereignty.[32] But the 3rd June Plan contemplated unreserved transfer of power.[33]

Under the Cabinet Mission Plan, power was to be transferred to an independent India even if it chose to remain outside the British Commonwealth.[34] But, under the 3rd June Plan, power would be transferred on a Dominion Status basis,

though this would not "prejudice the right of the Indian Constituent Assemblies to decide in due course whether or not the part of India in respect of which they have authority will remain within the British commonwealth."[35]

Under the Cabinet Mission Plan, though India would remain united for the first ten years of the new constitution, there was a possibility of eventual disintegration of the Union by the secession of Provinces after that period[36] of practical experience of union in the absence of British bayonets. Under the 3rd June Plan, the country might be divided into two independent states immediately without delay.[37]

Under the Cabinet Mission Plan, the country might, after an initial period of union for ten years, be disintegrated into as many independent states as the number of the existing Provinces. But, under the 3rd June Plan, though the country might be divided into two clear-cut, independent states immediately, future disintegration was not envisaged. In the new situation, the Cabinet Mission Plan's provision that "the constitutions of the Union and of the groups should contain a provision whereby any Province could, by a majority vote of its legislative assembly, call for a reconsideration of the terms of the constitution after an initial period of ten years and at ten-yearly intervals thereafter"[38] was certainly out of place. So, while, according to the Cabinet Mission Plan, India might possibly be disintegrated in future into a congeries of separate and independent states, under the 3rd June Plan the number of separate and independent states could not possibly exceed two.[39]

Under the Cabinet Mission Plan, after ten years, the whole of the area known in 1946 as a Province might form an independent state.[40] But, under the 3rd June Plan, what might be divided was not only the country but also the areas included in the then Provinces.[41] The 3rd June Plan provided that the country might be partitioned on

the basis of majority areas of Muslims and non-Muslims. For the immediate purpose of partition, the Provinces of Bengal and the Punjab were notionally divided according to Muslim-majority districts and non-Muslim-majority districts. Moreover, a referendum, to be held in Sylhet district of the Province of Assam, was to decide whether it would be separated from that Province and be amalgamated with the Province of Eastern Bengal that might be created by the partition of Bengal. The territorial demarcation would finally be determined by Boundary Commissions which would take into account other factors as well. It may be noted in this connection that the Cabinet Mission also, while rejecting the Muslim League's demand for Pakistan, had pointed out that there was no justification for including in Pakistan those districts of the Punjab and of Bengal and Assam in which the population was predominantly non-Muslim. Indeed, to thwart the ambitious claims of the Muslim League, the Cabinet Mission had really given a hint of the possible partition of the Provinces as well. It had said: "Every argument that can be used in favour of Pakistan, can equally in our view be used in favour of the exclusion of the non-Muslim areas from Pakistan."[42]

Under the Cabinet Mission Plan, the Constituent Assembly was to work in accordance with the procedural provision that resolutions "raising any major communal issue shall require a majority of the representatives present and voting of each of the two major communities." The 3rd June Plan did away with any such limitation. The Cabinet Mission's scheme of a united India on the basis of a communal compromise was abandoned. Therefore, the above limitation imposed by sub-paragraph (VII) of paragraph 19 of the statement of 16th May, 1946, would have no validity in the changed context.

Under the Cabinet Mission Plan, the Union to be established must necessarily have been a very weak Centre. But the 3rd June Plan made it quite possible for the

Constituent Assembly to make the Centre as strong as it liked. The issue of union *versus* division being solved by the 3rd June Plan, the Constituent Assembly was no longer hamstrung by the Cabinet Mission Plan's proivision that the Union of India would deal only with foreign affairs, defence, and communications, and would only "have the powers necessary to raise the finances required for the above subjects ;" nor was it fettered by the provision that "all subjects other than the Union subjects and all residduary powers should vest in the Provinces."[43]

Soon after the acceptance of the 3rd June Plan by the parties concerned, decisions were taken: (1) on the issue of partition of Bengal and the Punjab, (2) on the issue which Constituent Assembly the N. W. F. P. or Sind would join, and also (3) on the issue whether Sylhet would be amalgamated with Eastern Bengal.

The decision was taken in the following manner in Bengal :—

On the morning of 20th June, 1947, the members of the Bengal Legislative Assembly excepting the Europeans sat in two parts, one representing the Muslim-majority disttricts and the other representing the non-Muslim-majority districts of Bengal, their meeting being convened under paragraphs 5 to 8 of the statement of 3rd June, 1947.

At the meeting of the members of the Bengal Legislative Assembly representing Muslim-majority districts, the President enquired whether there was any member who demanded that there should be a meeting of all the members of the Legislative Assembly other than the Europeans, at which a decision was to be taken on the issue as to which Constituent Assembly the Province as a whole would join, if it were decided by the two parts to remain united. A Congress member demanded that there should be a joint session. Message was sent to the President of the other part and a joint meeting was held. At the joint meeting, the President wanted to ascertain whether the Province

of Bengal as a whole would join the then existing Constituent Assembly or join a new and separate Constituent Assembly consisting of representatives of those areas which would decide not to participate in the then existing Constituent Assembly. The result of the division was in favour of a new and separate Constituent Assembly by 126 votes to 90.

After this meeting, another meeting was held of the members of the Bengal Legislative Assembly representing the Muslim-majority districts. The President wanted to ascertain whether the Province of Bengal should be partitioned or not. The result of the division was against partition by 106 votes to 35.

At this time, message was received from the other part of the Legislative Assembly that it had decided in favour of partition.

Then, the President wanted to ascertain the wishes of the Muslim-majority part of the Legislative Assembly whether it would join the then existing Constituent Assembly, or it would join a new and separate Constituent Assembly consisting of the representatives of those areas which decided not to participate in the then existing Constituent Assembly. The division was in favour of joining a new and separate Constituent Assembly by 107 votes to 34.

The President then wanted to ascertain the wishes of the Muslim-majority part of the Legislative Assembly as to whether the new Province of East Bengal should agree to the amalgamation of Sylhet district with that Province if the referendum to be held in that district in accordance with paragraph 13 of the statement of 3rd June resulted in favour of such amalgamation. The decision was in favour of the amalgamation of Sylhet (105 votes to 34).[44]

Simultaneously with the part representing the Muslim-majority districts, the other part representing the non-Muslim-majority districts of Bengal met to decide on the issues.

The President enquired of all members of the non-Muslim-majority part of the Legislative Assembly as to whether there was any member who would demand a joint meeting of the two parts of the Assembly other than Europeans, at which a decision should be taken as to which Constituent Assembly the Province as a whole would join if it were decided by the two parts to remain united. One of the members demanding a joint sitting, the President informed the house that the joint meeting would be held. After the joint meeting finished its work, the President of the non-Muslim part said: "It is now the duty of this part of the Bengal Legislative Assembly to decide by vote whether the Province of Bengal should be partitioned." The result of the division was in favour of partition by 58 votes to 21. A message was sent to the other part accordingly. After this, the President said: "The question before the House is whether the constitution of the separated Province consisting of the non-Muslim-majority areas should be framed in the existing Constituent Assembly." The result of the division was in favour of the existing Constituent Assembly by 58 votes to 21.[45]

In a similar way, on 23rd June, the members of the Punjab Legislative Assembly decided the issues. There, partition of the Province was decided upon at the meeting of the members from the non-Muslim-majority districts by 50 votes to 22.[46]

On 26th June, the Sind Legislative Assembly, at a special meeting, decided by 33 votes to 20 that Sind should join the new Pakistan Constituent Assembly.[47]

The referendum held in the North-West Frontier Province resulted in favour of the Province's joining the Pakistan Constituent Assembly. The referendum had been boycotted by the Congress and the Khudai Khidmatgars (Khan Abdul Gaffar Khan's volunteer organisation).[48]

In a special joint meeting of the members of the Shahi Jirga (excluding the Sardars nominated by the Kalat State) and the

non-official members of the Quetta Municipality, Baluchistan decided to join Pakistan.[49]

The Sylhet referendum also resulted in favour of its amalgamation with East Bengal.[50]

In the meanwhile, a Partition Committee had been formed on 7th June for the purpose of dealing with different questions involved in partition. It had been composed of two Congress and two Muslim League members of the Interim Government with the Viceroy as the Chairman. It had been a fact-finding body charged with the duty of making proposals regarding the division of assets and liabilities between India and Pakistan. After Bengal and the Punjab had decided in favour of partition, this Committee was replaced by a Partition Council on 27th June. It consisted of two leaders of the Congress and two of the Muslim League with the Viceroy as Chairman.[51]

Sir Cyril Radcliffe was selected as Chairman of the Punjab and Bengal Boundary Commissions with a casting vote on each. The terms of reference for each Boundary Commission were "to demarcate the boundaries of the new parts of either Province on the basis of ascertaining the contiguous majority areas of Muslims and non-Muslims, and in so doing to take account of other factors."[52]

On 4th July, the Indian Independence Bill, 1947, was introduced in the House of Commons. It fixed 15th August, 1947, as the date of the transfer of power.

The Partition Council had been set up on 27th June, and on 1st July, it was announced that it had reached agreement on the general principles to govern the reconstruction of the Armed Forces. It decided that India and Pakistan should each have in its own territory its own Armed Forces, predominantly non-Muslim and Muslim respectively, which as from the date of the transfer of power were to be under its own operational control. Until the division of the Forces was completed, and the two Dominion Governments were in a position to administer them, the then existing Armed

Forces would remain under the administrative control of the then Commander-in-Chief who would, in turn, be under the joint Defence Council, consisting of the Governor-General or Governors-General, the two Defence Ministers and the Commander-in-Chief himself. It was agreed that Lord Mountbatten would be the Chairman of this Council. The Commander-in-Chief would have no responsibility for law and order, no operational control of any units except during transit from one Dominion to another, nor any power to move troops within the borders of either Dominion.[53]

As regards British Forces, it had already been decided by the Partition Committee that, on the transfer of power, they would be withdrawn from India. Field-Marshal Montgomery who came to India at that time helped to solve "the problem of their withdrawal."[54]

As the arrangements for partition were being completed, two questions came to be of great importance. The one was whether there should be a common Governor-General or separate Governors-General for the two Dominions ; the other was as to the reconstruction of the Interim Government.

The first question was finally decided in favour of two Governors-General. The choices were Lord Mountbatten for India and Mr. Jinnah for Pakistan.[55]

The solution of the second question was not easy. Ever since the acceptance of the 3rd June Plan, there had been an insistence from the Congress side that the League members should resign from the Interim Government as they were not co-operating with the Congress members. Mr. Jinnah's reaction to this was that if any Muslim League members were removed they (the Muslim League members) would resign *en bloc*. This would imply that they were withdrawing all co-operation and washing their hands of the whole partition scheme. Lord Mountbatten asked all the members, Congress and Muslim League alike, to resign and invited

them to carry on until the actual passing of the Indian Independence Bill.[56] He then reconstructed the Interim Government so as to make it in effect two Administrations, one for India and another for Pakistan, each dealing with its own affairs and consulting the other only on matters of common concern.[57]

The Indian Independence Act, 1947, completed the process by creating two independent Dominions, namely, India and Pakistan, as from 15th August, 1947.[58]

The Indian Independence Act, 1947, did not provide for any new constitution of India. It was in the nature of an enabling Act—an Act "to enable the representatives of India and Pakistan to frame their own constitutions and to provide for the exceedingly difficult period of transition."[59] It converted India from a dependency of the Crown into two independent Dominions within the British Commonwealth of Nations. The two Dominions were "free and equal, of no less status than the United Kingdom, or the Dominion of Canada, completely free in all respects from any control by (Britain) but united by a common allegiance to the Sovereign and by a community of ideas, receiving from their membership of the Commonwealth great advantages but in no way suffering any restriction."[60] The word 'independent' emphasised freedom from control from Parliament and Whitehall.

The territories of the Dominions were specified in the Act[61] but this demarcation was subject to the award of the Boundary Commissions, one for the new Provinces of East Bengal and West Bengal and also for the Province of Assam and another for the new Provinces of East Punjab and West Punjab.[62] The territorial demarcation as given in the Act merely gave effect to the scheme whereby the Indian people through their own representatives had been given the opportunity of deciding the issue of the division of the country.

The Dominion of India signified what was, before 15th August, 1947, British India, excluding a seceding part to be

known from 15th August as Pakistan. The Dominion of Pakistan was to include British Baluchistan, the N. W. F. P., West Punjab, Sind, and East Bengal with which Sylhet district of Assam was to be amalgamated. Either of the Dominions could also include any areas not specified in this Act, provided that an area, if it formed a part of either Dominion, could not be so included in the other Dominion without the consent of the Dominion concerned.

Notwithstanding their common allegiance to the Crown, the Dominions were declared to be independent. As a mark of that independence, the control of the British Government and Parliament was withdrawn. The office of the Governor-General remained as the last link with the Crown.

The Governor-General of each Dominion was to be appointed by the King.[63] The Governor-General of a Dominion is appointed by the Monarch on the advice of the Cabinet of the Dominion concerned. But, the appointment of the Governors-General of the new Dominions was somewhat exceptional. In the first place, there was the matter of procedure. It was not possible to follow the normal procedure in this case. Under the Act, the Governors-General would have to be appointed as from 15th August, 1947. Although the two countries would become Dominions from that date, there could be no ministers formally to advise the Crown until a Governor-General had been appointed and ministers had taken office. In these circumstances, it was agreed with the Indian leaders, and the King's approval was obtained, that the Viceroy should consult the recognised leaders of the Congress and the Muslim League as to the person whom they wished to recommend for appointment as Governor-General. Then, their advice would be fully tendered to the King by His Majesty's Government in the United Kingdom. Although the appointments would be made on the formal advice of ministers in Britain, they would, in fact, be recommendations of the Indian leaders themselves.[64]

Both the Congress and the Muslim League made recommendations which the King accepted. The recommendations were Lord Mountbatten for India and Mr. Jinnah for Pakistan. The Muslim League, however, agreed that Lord Mountbatten should be the Chairman of the Joint Defence Council which would be responsible "for central administration of the Armed Forces until such time as India and Pakistan" were "themselves in a position to administer them."[65]

The independent character of the Dominions was firmly established by instituting a full-power Legislature in each of them. Section 6 was one of the most important Sections of the Indian Independence Act, 1947. It made all such handicaps as are appropriate to Colonial Legislatures inapplicable to the Legislatures of the new Dominions.

The provisions of Section 6 combined the provisions of certain Sections of the Statute of Westminster, 1931,[66] with the provision of a Section of the Status of the Union Act, 1934.[67]

Sub-section (1) of Section 6 corresponded with Section 3 of the Statute of Westminster and empowered the Legislatures of the new Dominions to make laws having extraterritorial operation.

Sub-section (2) of the same Section corresponded with Section 2 of the Statute of Westminster. The Dominion Legislatures were not to be fettered by any of those limitations which are appropriate to Colonial Legislatures. No law made by either of them could be void on the ground of repugnancy to any Act of the British Parliament (existing or future and including the Indian Independence Act itself), or to any order or rule or regulation made under any such Act. Moreover, it was perfectly within the competence of the Legislature of each Dominion to repeal or amend any Act of the British Parliament (including the Indian Independence Act itself), or order or rule or regulation, in so far as it was part of the law of the Dominion.

Under Sub-section (3) of Section 6 (similar to Section 6 of

the Statute of Westminster), so much of any Act as related to the disallowance of any law by His Majesty, or reservation of Bills for His Majesty, or suspension of the operation of laws until the signification of His Majesty's pleasure, was not to apply to a Bill passed by the Legislature of either Dominion. The Governor-General of each of the Dominions was to assent, in His Majesty's name, to laws passed by the Dominion Legislature.

Sub-section (4) of Section 6 corresponded with Section 2 of the Status of the Union Act, 1934, and in a way went beyond the provisions of Section 4 of the Statute of Westminster, 1931.

Section 4 of the Statute of Westminster provided as follows : "No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that the Dominion has requested, and consented to, the enactment thereof."

There is a remarkable difference between this Section of the Statute of Westminster and Sub-section (4) of Section 6 of the Indian Independence Act which corresponds to Section 2 of the Status of the Union Act. Under the Indian Independence Act, an Act of Parliament of the United Kingdom could extend to either of the new Dominions only if it was extended thereto by an Act of the Legislature of the Dominion concerned. Sub-section (4) of Section 6 of the Indian Independence Act, therefore, gave the Legislatures of the new Dominions greater power than what was provided for in Section 4 of the Statute of Westminster.

Under Sub-section (5) of Section 6, no Order in Council made on or after 15th August, 1947, under any Act passed before that day was to extend to either of the new Dominions as part of the law of that Dominion.

Sub-sections (2), (4) and (5) of Section 6 of the Indian Independence Act removed "every possible elements of

subordination to, or dependence on, the Parliament of the United Kingdom. In particular, the power to amend or repeal "this or any existing or future Act of Parliament," in so far as it affected the Dominion, constituted a complete and unreserved transfer of sovereign power."[68]

Under Sub-section (6) of Section 6 of the Indian Independence Act, the power of the Legislature of each of the Dominions extended "to the making of laws limiting for the future the powers of the Legislature of the Dominion." This provision seems to be superfluous in view of the sovereign character of the Dominion Legislatures. The Attorney-General explained in the House of Commons at the Committee stage of the Bill this apparently superficial provision in the following manner : "The position.....is that it will be open to the Legislature to provide for a federal (type) of constitution under which the powers of the different Legislatures are limited, certain subjects being limited to the one and certain subjects to the other. If it did that, it would need to make provision that the powers of the particular provincial Legislatures should be limited. That is the object of the Sub-section."[69]

From 15th August, 1947, the British Government was to have no responsibility for the administration of British India.[70] As a mark of the transfer of power to Indian hands, the words "Emperor of India" and "India Imperator" were abolished from the royal style and titles.[71] In accordance with the Preamble to the Statute of Westminster, a change in the royal style and titles requires the assent of the Parliaments of the Dominions as also of the British Parliament. As a result of consultations with the Prime Ministers concerned, the British Premier declared at the time of the second reading of the Indian Independence Bill that the other Commonwealth Governments had agreed to the proposed change though some time would elapse before necessary legislative action was taken by the Dominions.[72]

The Constituent Assembly of each of the Dominions was to

have, besides constituent powers, powers of performing the ordinary functions of a Parliament.[73] The Government of India Act, 1935, was to be, for the time being, the basic constitution of India.[74] In the changed circumstances, all the provisions of that Act could not be given effect to. Hence, it was provided that the Act would be applied subject to omissions, modifications and adaptations by orders of the Governor-General.[75] It was precisely laid down that the Governor-General as also the Governors would not exercise their discretion or individual judgement.[76]

The Governor-General was given very wide powers to make the necessary adaptations by orders.[77] He was empowered to issue orders making such provisions as appeared to him necessary—

(i) for bringing the provisions of the Act into operation;

(ii) for dividing between the new Dominions and between the new Provinces to be constituted under the Act the powers, rights, property, duties and liabilities of the Governor-General in Council or, as the case might be, of the relevant Provinces which, under the Act, were to cease to exist ;

(iii) for making omissions from, additions to, and adaptations and modifications of, the Government of India Act, 1935, and the Orders in Council, rules and other instruments made thereunder, in their application to the separate new Dominions ;

(iv) for removing difficulties arising in connection with the transition to the provisions of the Act ;

(v) for regulating the monetary system and any other matters pertaining to the Reserve Bank of India ; and

(vi) for varying the constitution, powers or jurisdiction of any legislature, court or other authority in the new Dominions and creating new legislatures, courts or other authorities therein so far as it appeared necessary or expedient in connection with any of the matters aforesaid.[78]

These powers of the Governor-General to make necessary adaptations by orders were to come to an end on 31st March, 1948, unless terminated earlier by the Dominion Legislature.[79] But these were to have retrospective effect as from 3rd June, 1947.[80] There was a "similar though rather smaller problem involved in the division of the Punjab, Bengal and possibly Assam." Accordingly, powers similar to those given to the Governor-General were given to the Governors of those Provinces, but only upto 15th August, 1947.[81]

The Secretary of State's services had been one of the agencies of the British Government's control over India. When power was to be transferred to Indian hands, those services would lose their importance as symbols of British control. That is why, with the creation of the Dominions, appointment to civil services and reservation of posts by the Secretary of State were to be discontinued.[82] At the same time, compensation was to be given to those of the then existing members of these services who might secure the termination of their services on account of the transfer of power.[83] The Indian Independence Act provided, however, for the maintenance of the then existing conditions of service as well as pensionary rights in the case of those members of the Secretary of State's services who would continue to serve under the Government of either of the new Dominions or of any Province. This provision did not exclude the right of any Government to revise the conditions as changed circumstances might permit.[84]

Besides the Secretary of State's services, the British Forces were another instrument of British control over India. On the transfer of power to Indian hands, the British Forces were to be withdrawn from India.[85] The Army Act and the Air Force Act were modified so as to govern the British Forces during their stay in India till withdrawal.[86] "The general principle of the modifications" was "to remove all powers of interference by the Governor-General and other civilian authorities in India with the internal affairs of the British Army in India, while preserving their powers and duties so far as

they" did "not amount to interference of this kind."[87] The Indian Armed Forces were to be divided between the two Dominions by orders of the Governor-General under the Indian Independence Act. Reference has already been made to the work of the Partition Committee and the Partition Council to this end.[88]

With the termination of all British control over India, the office of the Secretary of State for India was to come to an end. "The conduct of relations of Britain with India" and Pakistan "would fall within the sphere of the Secretary of State for Commonwealth Relations. For a transitional period, there" would be, "in relation to India and Pakistan, a considerable volume of work" for the British Government. Much of this work would be of a "winding up character."[89] So it would be necessary to appoint a Minister of State for assisting the Secretary of State for Commonwealth Relations.[90]

As the office of the Secretary of State for India was abolished, all legal proceedings which would otherwise have been taken by or against the Secretary of State and all cases pending on 15th August, 1947, would be taken by or against the Indian High Commissioner so far as proceedings in the United Kingdom were concerned and, in the case of other proceedings, by or against such authority as the Governor-General might designate.[91]

Thus the finale came. Truly did Mr. Attlee say during the second reading of the Indian Independence Bill in the House of Commons: "It is the culminating point in a long course of events.....The Act of 1935, the Declaration at the time of the Cripps Mission, the visit of my right hon. Friends to India last year, are all steps in the road that led up eventually to the proposals that I announced to the House on 3rd June last. This Bill is designed to implement those proposals."[92]

Even the Conservatives acquiesced in the Bill. The Conservative Party did not fail to notice what it considered to be the defects of the Indian Independence Bill, i.e., no safeguards for the interests of the minorities or of the Indian States, and, moreover,

the provision for the partitioning of the country. Still, it welcomed the Bill. In the absence of Mr. Churchill, Mr. Macmillan said: "Grave as are the dangers of India not being merely partitioned, but ultimately Balkanised, serious as may be our apprehensions as to the unworkability of the whole process, yet we on this side of the House must not endanger, but must welcome a plan which avoids the most pressing and immediate dangers."[93]

The Indian Independence Act, 1947, closed the chapter of British rule in India and opened a new one of free India.

On 15th August, 1947, the Dominion Constitution came into operation in India (i.e., British India minus Pakistan). The Government of India Act, 1935, had been amended by the India (Provisional Constitution) Order, issued by the Governor-General on 14th August, 1947, under Sub-section (2) of Section 8 of the Indian Independence Act. By that Order, the Government of India Act, 1935, and the India (Central Government and Legislature) Act, 1946, were, until other provision was made by or in accordance with law made by the Constituent Assembly of India, to apply to India with the omissions, additions, adaptations and modifications as made in the Order and the Schedule thereto.[94]

According to these adaptations, the Dominion of India was to be a Union comprising the Governors' Provinces, the Chief-Commissioners' Provnices, the acceding Indian States and any other areas that might, with the consent of the Dominion, be included in it. The office of His Majesty's Representative was abolished as Paramountcy had been brought to an end.[95]

In the executive sphere, great changes were effected. The executive authority of the Dominion was to be exercised on behalf of His Majesty by the Governor-General to be aided and advised by a Council of Ministers. The Governor-General lost the powers to act in his discretion or individual judgment—the inevitable result of setting up a Dominion. The Governor-General became a constitutional ruler.

The powers of the Dominion Legislature were to be exercised by the Constituent Assembly. The Dominion Legislature was now to have full powers for making law for the whole or any part of the Dominion—the subjects of legislation normally being as enumerated in Lists I and III of the Seventh Schedule to the Government of India Act, 1935, and as modified in the adaptation Order. The power of the Dominion Legislature now extended also to the making of laws having extra-territorial operation. A Bill passed by the Dominion Legislature was to be presented to the Governor-General for his assent. He could give his assent or withhold his assent but could not reserve the Bill for the signification of His Majesty's pleasure.

In the Provinces, consequential changes took place. In the Governors' Provinces,[96] namely, Bombay, Madras, the Central Provinces and Berar, East Punjab, the United Provinces, Bihar, Orissa, West Bengal, and Assam, the Governmental set-up was on the same lines as at the Centre. The executive authority of a Province was vested in the Governor who was aided and advised by a Council of Ministers. Any person appointed to be the Governor of a Province after 15th August, 1947, was to be appointed by the Governor-General. The provisions (of the Government of India Act, 1935) relating to his powers to be exercised in his discretion or individual judgment were abolished. The Governor became a constitutional ruler.

CHAPTER XIV

UNION WITH INDIAN STATES

The question of the Indian States in the context of the constitutional development of India has been dealt with in appropriate places. But the problem was of so much importance that it merits a detailed consideration. We should first analyse the position of the States as before 15th August, 1947, and then examine their position as on that date.

The Indian States constituted a special category in law and fact. Sub-section (1) of Section 311 of the Government of India Act, 1935, defined an Indian State as including "any territory, whether described as a State, an Estate, a Jagir or otherwise, belonging to or under the suzerainty of a Ruler who is under the suzerainty of His Majesty and not being a part of British India." "In political practice, the term applied to a political community occupying a territory in India of defined boundaries and subject to a common Ruler who enjoyed or exercised, as belonging to him, any of the functions and attributes of internal sovereignty duly recognised by the Paramount Power" (i.e., the British Crown).[1]

The nature and position of the Indian States were clarified by the Simon Commission in the following manner :—

There were 562 States. Some of them were quite large, comparable in size to a British Indian Province ; others were much smaller ; the smallest were estates of a few acres under petty chieftains who exercised no jurisdictional powers.

The internal administration of the different States varied considerably, the only common feature being that they were not British territory and their subjects were not British subjects. The relation between each of them and the Paramount Power was governed by treaties or other documents, usages

and agreements ; but the Crown was in each case responsible for the State's external relations and for its territorial integrity. There were 40 important States which had entered into treaties with the Paramount Power. A large number of the other States had some form of engagement or sanad, i.e., a concession or acknowledgement of authority or privilege coupled with conditions, proceeding from the Paramount Power. The remainder enjoyed, in some form or other, recognition of their status by the Crown.

Each State managed its own internal affairs. It could make and administer its own laws and impose, collect and spend its own taxes. There was a British Resident or other Agent who was to advise the Ruler and report to the British authorities : the Crown had the right to intervene as the Paramount Power in the internal affairs of the State in cases of gross misgovernment or in cases where such intervention was called for, because the Crown as the Paramount Power was in duty bound to preserve the dynasty, protect the integrity of the State and maintain peace in India. Paramountcy thus made serious encroachments upon the internal independence of the States.[2]

In view of the fact that their relationship to the British authority was not quite clear, the States demanded a codification of the political practice. The Indian States Committee was appointed in 1927 to report upon the relationship between the Paramount Power and the Indian States. The Committee failed to define Paramountcy. Nevertheless, it expressed the view that Paramountcy must remain paramount ; it must fulfil its obligations, definining or adapting itself to the shifting necessities of the time and the progressive development of the States."[3]

Though the Indian States Committee failed to define Paramountcy, yet in paragraph 58 of its report it said : "The States demand that, without their own agreement, the rights and obligations of the Paramount Power should not be assigned to persons who are not under its control—for instance, an Indian

Government in British India responsible to an Indian Legislature.....We.....record our strong opinion that, in view of the fact of the historical nature of the relationship between the Paramount Power and the Princes, the latter should not be transferred without their own agreement to a relationship with a new government in British India responsible to an Indian Legislature."

This principle was sought to be given effect to in all the major plans for India's constitutional advance beginning with the Government of India Act, 1935.

The Act of 1935 which contemplated a sort of responsible government in India created, at the same time, a new office—that of His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States. Then, a sharp distinction was drawn between the functions of the Governor-General and of His Majesty's Representative. Though it was lawful for His Majesty to appoint the same person to fill both the offices of the Governor-General and of His Majesty's Representative,[4] yet any powers connected with the exercise of the functions of the Crown in its relations with Indian States were to be exercised in India, if not exercised by His Majesty, only by, or by persons acting under the authority of, His Majesty's Representative.[5]

Nevertheless, the Act of 1935 adumbrated a scheme of federal union between the States and British Indian Provinces. The Fedral scheme embodied in that Act was the first attempt to provide for a constitutional relationship between the Indian States and the Government of India on a federal basis.

But one of the peculiar features of the Act of 1935 was that, whereas in the case of the Provinces accession to the Federation was to be automatic, in the case of the States accession was to be voluntary ; and the establishment of the proposed Federation was conditional upon the accession of a prescribed number of States.

The reason for this differentiation was the peculiar conditions of India in which the Federation was sought to be

established. Some of the political communities proposed to be included were not yet autonomous and could not federate unless enabled to do so by an Act of Parliament. The others were neither British territory nor subject to the authority of Parliament. Nor could the Provinces of British India and the Indian States meet together and agree upon a federal constitution. The Provinces had not the legal power to do so, and the variety and number of the Indian States would, apart from other considerations, have precluded it.

In such circumstances, the British Parliament had framed a constitution and embodied it in an Act. The Act would be binding upon British India because British India was subject to the authority of Parliament. But, so far as the States were concerned, it would provide the machinery whereby the Indian States might severally accept that constitution (or specific provisions of that constitution) and thus become part of the Federation, not because the Act was an Act of Parliament but because it embodied a constitution to which they had, of their own volition, acceded.[6]

The accession was to be secured by the King's acceptance of an Instrument of Accession freely executed by the Ruler of a State. The Instrument was to specify matters on which the Federal Legislature was to have power to legislate for the State and the limitations, if any, on the legislative and executive powers of the Federation in respect of the State concerned. So, the Instruments of Accession might vary as betwen States. But it was expected that some sort of uniformity would be maintained. With regard to the States' relations with the Federation, the Instruments of Accession were to guarantee the internal autonomy and the rights of the Rulers.[7] So far as the States' relations with the British Crown, apart from their connection with the Indian Federation, were concerned, the rights and obligations of the Crown in respect of the States were practically left to be determined by the old doctrine of Paramountcy.

When the Provincial part of the Government of India Act,

1935, was introduced, it was hoped that perhaps the requisite number of States would accede to the Federation. But that hope did not materialise. The period following the promulgation of the Government of India Act, 1935, was one of "protracted negotiations during the course of which the draft of the Instrument of Accession underwent several changes."[7] The Rulers were most anxious to preserve their rights and interests and were not prepared to allow the Federal authorities to exercise those minimum functions in respect of the States without which a federation would be meaningless. The States even looked upon their accession to the Federation as "a process of levelling down so far as their internal sovereignty was concerned."[7]

An attempt was made by Lord Linlithgow, the then Viceroy, to finalise the matter. In January, 1939, the Viceroy "addressed a circular letter to the Rulers of all the Salute States, enclosing the revised drafts of the Instrument of Accession with three schedules attached to the Instrument and the draft acceptance of His Majesty. The letter emphasised that there was no prospect of any substantial variation of the terms" proposed, and the Rulers were expected to reply within six months. The matters contained in this letter were considered in the Conference of Princes and Ministers at Bombay.

The resolution passed at this Conference expressed in clear and unequivocal language that the terms on the basis of which accession was offered were unsatisfactory, and were, therefore, unacceptable. At the same time, the Conference recorded "its belief that it could not be the intention of His Majesty's Government to close the door on all-India Federation."

After this, attempts were made by certain individual Rulers to demand some concessions. It was argued on their behalf that, if those concessions were granted to them, they were likely to join the Federation and thus set an example to other States. Lord Linlithgow seemed to have been impressed by this idea and suggested to the Secretay of State that some major States should be encouraged to accede. The Secretary

of State, however, was not sanguine and enquired if the Viceroy was satisfied that the effort would enable the Federation to be established.

There was "no such assurance." On the other hand, the force of events made the problem of the States more complicated. The introduction of autonomy in the Provinces had some repercussions on the States in some of which a movement for responsible government began. In some ways, the Congress sympathised with this movement and some Congressmen in their individual capacity even started agitation in the States. Gandhiji also indicated that the Congress as an organisation might abandon the policy of neutrality followed so far.[8]

Lord Linlithgow realised that some internal reforms were necessary for the States, otherwise they might "succumb to the Congress agitation."[8] There were two aspects of the problem :—(1) administrative changes in the direction of efficiency and (2) constitutional reform in the direction of responsible government. While the Political Department[9] did not want to go so far as Lord Linlithgow in the matter of administrative reforms, and totally opposed his idea of bringing pressure upon the Rulers for initiating representative government, the Secretary of State agreed with Lord Linlithgow in the matter of administrative reforms. Regarding constitutional advance, however, the Secretary of State thought that the initiative and responsibility should rest with the Rulers themselves.[10]

When the constitutional matters were at this stage, the Second World War broke out. The British Government needed India's help in men, money and material. In order to stop further constitutional bickerings and thus get help from all quarters, and also "to concentrate on the emergency," the British Government decided to suspend the preparations for federation. That decision was expressed in the Viceroy's declaration of 11th September, 1939.[11]

After the suspension of the Federal scheme, "the policy underlying the scheme, that the transfer of responsibility at

the Centre (to Indians) should be conditional on the participation of the Rulers of Indian States, underwent a change."[12] That change could be discerned in the Cripps Proposal. Nevertheless, in almost every major declaration of policy with regard to India, the British Government referred to the Princes as one of the parties whose opinion was to be considered. The interests of the States, again, were one of the factors which weighed with the British Government in the matter of instituting any constitutional change during the pendency of the war. Perhaps as a token of recognition of co-operation in the war efforts, the States got nine seats in the National Defence Council which was set up to associate Indian public opinion with the war efforts of the British Government.

By the time Sir Stafford Cripps arrived in India, circumstances had changed to such an extent that a departure in policy with respect to the States had to be made by the British Government. The immediate objective of the Cripps Mission was to pursuade the "British Indian party-leaders to agree to share the responsibilities of the Central Government in which the States were not required to participate."[12] So far as constitution-making was concerned, it only stated that, whether or not a state adhered to the new constitution, it would be "necessary to negotiate a revision of its treaty arrangements so far as this may be required in the new situation."[13]

In the Cripps proposal, there was a differentiation "between the Provinces and the States in applying the principle of non-adherence."[12] The Provinces, not adhering to the proposed Indian Union, might possibly form a separate, independent Union. But nothing definite was said about non-adhering States. In the Memorandum submitted by the Indian States Delegation, this point was emphasised, and it was urged that non-adhering States or groups of States should have the right to form a Union of their own with full sovereign status in accordance with an agreed procedure.[14] Sir Stafford Cripps told the States Delegation that "personally he did not see any fundamental difficulty in the suggestion" but, as the possibility of

a separate Union or Unions of States had not been considered in the draft declaration, "he was not able to give a definite reply."[15]

After the failure of the Cripps Mission, no further attempt was made to break the political deadlock till the Simla Conference. The States were not invited to this Conference as the main objective of this Conference was to reconstruct the Central Government. The Simla Conference, again, proved to be a failure.

The policy that the British Government would not transform the States' relationship with the Crown, without the consent of the States themselves, into their (the States') relationship with a new Government in India responsible to an Indian Legislature, remained intact. This policy had been repeatedly explained in several utterances of the British authorities. The Princes had been given assurances in this respect. In the Memorandum in regard to States Treaties and Paramountcy, dated 12th May, 1946, the Cabinet Mission referred to these assurances and added : "During the interim period, which must elapse before the coming into operation of a new Constitutional structure, paramountcy will remain in operation. But the British Government could not and will not in any circumstances transfer paramountcy to an Indian Government."[16]

In spite of all this, the exigencies of the situation in 1946 demanded a change in outlook. The British authorities felt that, though they could not "transfer paramountcy to an Indian Government," they would no longer be in a position to "carry out the obligations of paramountcy." They expected, therefore, that the States would themselves realise the position and establish a wholesome relation with British India. The Cabinet Mission explained this in the following manner :—

"The Indian States are in a position to play an important part in the formulation of the new Constitutional structure for India.....In order to facilitate this they will doubtless....

arrange (wherever necessary) to form or join (viable) administrative units to enable them to be fitted into the Constitutional structure, (and the Governments of the States should also) take active steps to place themselves in close and constant touch with public opinion in their States by means of representative institutions.

"During the interim period it will be necessary for the States to conduct negotiations with British India in regard to the future regulation of matters of common concern, especially in the economic and financial field. Such negotiations will be necessary whether the States desire to participate in the new Indian Constitutional structure or not.....In this matter, the British Government and the Crown Representative will lend such assistance as they can, should it be so desired.

"When a new fully self-governing or independent Government or Governments come into being in British India, His Majesty's Government's influence with these Governments will not be such as to enable them to carry out the obligations of paramountcy.....This means that the rights of the States which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States. Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India or, failing this, entering into particular political arrangements with it or them."[16]

This policy regarding the lapse of Paramountcy and also the "filling of the void" was reiterated in the Cabinet Mission Plan. In the statement of 16th May, 1946, the Cabinet Mission said : "It is quite clear that with the attainment of independence by British India, whether inside or outside the British Commonwealth, the relationship which has hitherto existed between the Rulers of the States and the British Crown

will no longer be possible. Paramountcy can neither be retained by the British Crown nor transferred to the new Government. This fact has been fully recognised by those whom we interviewed from the States. They have at the same time assured us that the States are ready and willing to co-operate in the new development of India. The precise form which their co-operation will take must be a matter for negotiation during the building up of the new constitutional structure, and it by no means follows that it will be identical for all the States."[17]

The Cabinet Mission's long-term scheme, contained in this statement of 16th May, 1946, also gave the outline of an arrangement whereby the States might "co-operate in the new development of India." The relevant portions of the statement of 16th May, 1946,[18] may be quoted below :—

"There should be a Union of India, embracing both British India and the States." [Paragraph 15(1)]

"The Union should have an executive and a legislature constituted from British Indian and States representatives." [Paragraph 15(2)]

"The States will retain all subjects and powers other than those ceded to the Union." [Paragraph 15(4)]

"It is the intention that the States would be given in the final Constituent Assembly appropriate representation which would not, on the basis of the calculations adopted for British India, exceed 93 ; but the method of selection will have to be determined by consultation. The States would in the preliminary stage be represented by a Negotiating Committee." [Paragraph 19(ii)]

After the Provincial and Group constitutions have been settled by the three sections of the Constituent Assembly, "the representatives of the sections and the Indian States shall reassemble for the purpose of settling the Union constitution." [Paragraph 19 (VI)].

"His Excellency the Viceroy will forthwith request the .. States to set up a Negotiating Committee." [(Paragraph 21).]

The States represented in the Chamber of Princes considered the scheme of the Cabinet Mission at their meeting held on 7th and 10th June, 1946. The Nawab of Bhopal, Chancellor of the Chamber of Princes, issued a statement on behalf of the Standing Committee of the Chamber. It appears from the statement that, in general, the Standing Committee favoured the scheme as it had "provided the necessary machinery for the attainment of independence by India as well as a fair basis for future negotiations." The Committee also welcomed the declaration of the Cabinet Mission in regard to Paramountcy but thought that certain adjustments for the interim period would be necessary. It accepted the invitation of the Viceroy to set up a Negotiating Committee for negotiating matters relating to the entry of the States in the proposed Constituent Assembly and added that the results of those negotiations should be placed before a general Conference of Rulers and representatives of the States so that the States themselves might decide whether or not to join.[19]

The General Council of the All-India States People's Conference,[20] however, viewed the proposals of the Cabinet Mission from quite a different angle. In a resolution adopted on 10th June, it expressed its surprise and regret that the representatives of the States' people had been completely ignored by the Cabinet Mission in its talks and consultations. The General Council emphasised that it had always asked for fully responsible government by the people of the States as an integral part of a free and federated India. It welcomed the statements made on behalf of the Princes in favour of an independent India. But it also pointed out that a free India must also be a democratic India, and, as a natural corollary, responsible government should be established in the States and that, in the constitution-making body, the members from the States should be representatives of the people of the States. It regretted that, in respect of the constitution-making body as proposed by the Cabinet Mission, the question of the selection of the States' representatives had been left over for

future negotiation. Again, while the representatives of the Provinces were to frame Provincial constitutions and, if so desired, Group constitutions as well, no such arrangements had been outlined for the preparation of the constitutions of the States.

The General Council, moreover, clearly expressed the view that, in any provisional arrangement, it was necessary to follow a uniform policy between the States, the Provinces, and the provisional Government of India. For this purpose, it wanted an advisory council to be created consisting of the representatives of the provisional Government, of the Rulers and of the people of the States. This council would deal with all common matters and would endeavour to co-ordinate the different policies of the different States. The General Council also wanted internal changes in the States to be expedited so as to ensure a certain uniformity in respect of the governmental system.

Its idea was that, at the end of the interim period, the States either singly or, as the case might be, in groups should form more or less equal units of the federal Union with equal rights with the Provinces and with a democratic structure similar to that prevailing in the Provinces.[21]

According to the terms of the Cabinet Mission Plan, the Standing Committee of the Chamber of Princes set up a Negotiating Committee "to negotiate the States' entry into the Constituent Assembly."[22]

In the meantime, elections to the Constituent Assembly had been over and an Interim Government formed in British India. Though the Muslim League had joined the Interim Government, it had refused to participate in the Constituent Assembly on account of some differences with the Congress over the interpretation of the Cabinet Mission Plan.

On 21st December, 1946, the Constituent Assembly also appointed a Negotiating Committee to confer with the States Negotiating Committee for the purpose of : (a) fixing the

distribution of seats in the Constituent Assembly (not exceeding 93) reserved for the States in the Cabinet Mission Plan ; and (b) fixing the method by which the representatives of the States were to be returned to the Constituent Assembly.[23]

The co-operation of the states was not easy. The Objectives Resolution passed by the Constituent Assembly on 22nd January, 1947, seemed to have frightened the States. The Princes' objections to this Resolution had been based on two grounds. First, the resolution contemplated a Sovereign Republic of India including the States and enshrined the idea of popular sovereignty.[24] This was a revolutionary idea to the Princes. Secondly, this resolution had been moved in the absence of the representatives of the States.[25] Some members of the States Negotiating Committee issued a statement that a resolution should not have been introduced raising fundamental issues which could not, and should not, have been considered in the absence of the States' representatives.

While winding up the debate on the Objectives Resolution, Pandit Nehru tried to meet the objections of the Princes. He said that it was not the fault of those assembled in the Constituent Assembly that the States were still unrepresented and that they would like the States to be represented at the earliest moment. He was surprised at the Princes' objections to the idea of popular sovereignty. He said : "That is a surprising objection and, if I may say so, if that objection is raised in all seriousness by anybody, be he a Ruler or a Minister, it is enough to condemn the Indian States system of every Ruler or Minister that exists in India.....So, I would suggest to such persons in all seriousness that, if they want to be respected or considered with any measure of friendliness, no such idea should be hinted at, much less said. On this there is going to be no compromise."[26]

The Princes were not ready to suffer a loss of power or prestige. As a result, on 29th January, 1947, the Standing Committee of the Chamber of Princes adopted a resolution setting out for the guidance of the States Negotiating

Committee a number of "fundamental propositions" which, according to it, had formed the basis of the States' acceptance of the Cabinet Mission Plan. The propositions were as follows :—

"The entry of the States into the Union of India in accordance with the accepted Plan shall be on no other basis than that of negotiation, and the final decision shall rest with each State. The proposed Union shall comprise, so far as the States are concerned, the territories of only such States or groups of States as may decide to join the Union....Their participation in the constitutional discussions in the meantime will imply no commitments in regard to their ultimate decision which can only be taken after consideration of the complete picture of the constitution.

".....Paramountcy will terminate at the close of the interim period and will not be transferred to or inherited by the new Government of India. All the rights surrendered by the States to the Paramount Power will return to the States. The proposed Union of India will, therefore, exercise only such functions in relation to the States in regard to Union subjects as are assigned or delegated by them to the Union. Every State shall continue to retain its sovereignty and all the rights and powers except to the extent that those rights and powers have been expressly delegated by it. There can be no question of any powers being vested or inherent or implied in the Union in respect of the States unless specifically agreed to by them.

"The constitution of each State, its territorial integrity, and the succession of its reigning dynasty in accordance with the custom, law and usage of the State, shall not be interfered with by the Union, or any Unit thereof, nor shall the existing boundaries of a State be altered except by its free consent and approval.

"So far as the States are concerned, the Constituent Assembly is authorised only to settle the Union constitution in accordance with the Cabinet Mission Plan, and is not

authorised to deal with questions bearing on the internal administration or constitutions of individual States or groups of States."

The resolution added : "The States Negotiating Committee selected by the Standing Committee of the Chamber of Princes and set up at the request of His Excellency the Viceroy in accordance with Paragraph 21 of the Cabinet Mission's statement of May 16, 1946, is the only authoritative body competent under the Cabinet Mission's Plan to conduct preliminary negotiations on behalf of the States on such questions relating to their position in the new Indian constitutional structure as the States might entrust to it."

Further, "While the distribution *inter se* of the States' quota of seats on the Constituent Assembly is a matter for the States to consider and decide among themselves, the method of selection of the States' representatives is a matter for consultation between the States Negotiating Committee and the corresponding Committee of the British Indian portion of the Constituent Assembly before final decision is taken by the States concerned."[27]

By the same resolution, the States Negotiating Committee was authorised to confer with the corresponding Committee of the Constituent Assembly in order to negotiate : (a) the terms of the States' participation in the Constituent Assembly when it was to reassemble under paragraph 19 (vi) of the Cabinet Mission Plan, and (b) in regard to their ultimate position in the proposed all-India Union; provided that the results of those negotiations were to be subject to the approval for the States Constitutional Advisory Committee and ratification by the States.[27]

The two Negotiating Committees met on 8th February, 1947. This meeting ended without any result as the Chancellor of the Chamber of Princes wanted to have assurances in respect of the fundamental propositions before the Princes could enter the Constituent Assembly. Pandit Nehru and Sardar Patel, on the other hand, said that the

business before them was only to decide the manner in which the representatives of the States could enter and participate in the work of the Constituent Assembly.[28]

When the Committees met again on 9th February, the Negotiating Committee of the Constituent Assembly pointed out that most of the points raised in the resolution of 29th January could only be discussed by a fully constituted Constituent Assembly including the representatives of the States. They were beyond the competence of the Committee itself.

Nevertheless, the Negotiating Committee of the Constituent Assembly removed certain misapprehensions which seemed to be causing concern to the Princes. It pointed out that the scheme was entirely a voluntary one and, whether in regard to the entry of the States into the Constituent Assembly, or subsequently when the Constituent Assembly would come to any conclusions, there was to be no compulsion. As regards the monarchical form of government, it pointed out that there could be no objection, again, to that. As regards the subjects of administration and legislation, the Committee assured its opposite number that the States would retain all subjects and powers other than those ceded to the Union—as in the Cabinet Mission Plan. Regarding territorial readjustments, it pointed out that these must be with the consent of the people concerned. Finally, with regard to the claim of the Standing Committee of the Chamber of Princes that the States Negotiating Committee selected by this Standing Committee should be recognised as "the only authoritative body competent under the Cabinet Mission Plan to conduct preliminary negotiation on behalf of the states," the Committee of the Constituent Assembly clearly explained that the Constituent Assembly could not possibly take the position that it was not prepared to discuss matters with States not represented on the Chamber of Princes' Negotiating Committee or with representatives of the States people, as that would involve an element of compulsion on those interested but not represented on the said Committee.[29]

A general understanding having been arrived at, the States

Negotiating Committee proceeded to consider the two matters on which the Negotiating Committee of the Constituent Assembly was to settle with it. After a preliminary discussion, it was decided that the question of the distribution of seats should be referred to the secretariats of the Constituent Assembly and of the Chamber of Princes and their recommendations placed before the next meeting of the two Committees on 1st March, 1947.[29]

In the meanwhile, the Dewan of Boroda had asked for direct negotiation with the Negotiating Committee of the Constituent Assembly on the question of the representation of Baroda in the Constituent Assembly. It was agreed between the two parties that Baroda should have three representatives to be elected by the State Legislature on the principle of proportional representation by means of the single transferable vote, and that only its elected member and nominated non-official members should take part in the election.[29]

The next joint meeting of the two Committees was held on 1st March. At this meeting, the Committees approved of the distribution of seats as proposed by the two secretariats and authorised the making of such minor modifications as were considered necessary by the parties concerned.[29]

After this, they discussed the method of selecting representatives. A joint sub-committee had been appointed for the purpose. Having considered its report, the two Committees approved of the following formula, viz, not less than fifty per cent of the total representatives of the States were to be elected by elected members of Legislatures or, where such Legislatures did not exist, by other electoral colleges. The States undertook to increase the quota of elected representatives to as much above fifty per cent as possible.[29]

This agreement was endorsed by a Conference of Rulers (on 2nd April),[30] by the All-India States People's Conference,[31] and, later on, by the Constituent Assembly (on 28th April).[32]

Though there was an agreement as to the allocation of seats to the States and the method of representation, yet

it was by no means certain that the States would enter the Constituent Assembly without further delay. At the meeting between the two Negotiating Committees on 1st March, it was pointed out by the Negotiating Committee of the Constituent Assembly that, in view of the British Government's statement of 20th February (which, though reiterating that the British Government "would not hand over their powers and obligations under Paramountcy to any Government of British India," had yet fixed the dead-line of June, 1948, for the complete withdrawal of British power), it would be helpful (for the purpose of avoiding chaos and confusion) if the States joined the Constituent Assembly during the April (1947) session. The States Negotiating Committee, however, declared that it could do nothing without instructions from the General Conference of Rulers which it promised to convene at an early date.[33]

The General Conference was convened for the first week of April. A Memorandum had been circulated by the Chancellor's secretariat for the meetings of the Standing Committee and the General Conference. The Memorandum was a sort of advice to the rulers to adopt a "wait and see" policy. The Maharajah of Bikaner opposed this attitude and issued a statement advocating immediate entry of the States to the Constituent Assembly notwithstanding the boycott of the Constituent Assembly by the Muslim League. The Maharajah of Patiala followed the Maharajah of Bikaner. Thus the Maharajah of Bikaner and his group wanted to join the Constituent Assembly as against the Chancellor's group.[34] The effect of this dissension was fully realised in the resolution passed by the General Conference of Rulers on 2nd April. In fact, the resolution was a compromise between the two views. The resolution runs as follows : "It (the General Conference of Rulers) reiterates the previous decisions of the States to adhere strictly to the Cabinet Mission's Plan, under which the representatives of such States as may so desire may join the Constituent Assembly at the appropriate stage when that Assembly meets, in accordance with the Cabinet Mission's

Plan, to settle the Union Constitution, provided that such participation is preceded by acceptance by the Constituent Assembly of the general understanding reached between the two Negotiating Committees in regard to the fundamental points and other matters."[35]

The compromise resolution failed to hide the open gap between the two groups of Princes. The Nawab of Bhopal, Chancellor of the Chamber of Princes, insisted that the Constituent Assembly should ratify the understanding reached between the two Negotiating Committees before the States could enter the Constituent Assembly. Pandit Nehru took the view that a formal ratification was unnecessary and that his Committee was only to report the results of its negotiations to the Constituent Assembly. The Chancellor of the Chamber of Princes then asked the States not to join the Constituent Assembly or its Committees. The Maharajah of Patiala, on the other hand, accepted Pandit Nehru's view and urged the States to join the Constituent Assembly without any further loss of time. The Nawab of Bhopal made another attempt to dissuade the States from entering the Assembly. He appealed to them to stick to the decisions of the General Conference. But the Maharajah of Patiala took the stand that it would be prejudicial to the interests of the Princes as also of the whole country to keep aloof from the Constituent Assembly ; and he was able to persuade a number of Rulers to send their representatives to the Constituent Assembly.[36]

Shortly after this, while addressing the States People's Conference (18th April), Pandit Nehru declared that keeping aloof from the Assembly would be regarded as hostility on the part of a State. Mr. Liaquat Ali Khan, a Muslim League member of the Interim Government, rejoined that the States were perfectly free to join the Constituent Assembly or not, and he asked the States "to disregard the idle threat."[36]

When the Constituent Assembly met on 28th April, the representatives of the States of Baroda, Cochin, Udaipur, Jaipur, Jodhpur, Bikaner, Patiala and Rewa took their seats

in the Assembly.[37] At a later date, most of the States entitled to individual representation also sent their representatives to the Constituent Assembly of India. Representatives were also sent in due course by groups of States which were not entitled to individual representation.[38]

Having described the way in which almost all the States ultimately joined the Constituent Assembly of India, we may now discuss their accession to the Indian Dominion.

In the statement of 3rd June, 1947,[39] read with the Cabinet Mission's Memorandum of 12th May, 1946, it had been declared that, on power being transferred to India, Paramountcy would lapse. Just after the statement of 3rd June, 1947, there developed a tendency among the Rulers to "make the most of the bargaining position in which the lapse of Paramountcy placed them."[40] The Nawab of Bhopal declared that, as soon as Paramountcy was withdrawn, Bhopal would assume independent status.[41] On 11th June, a similar announcement was made on behalf of Travancore. The Nizam's declaration to the same effect followed the next day.[42] There was a general apprehension that the country might be further split up. The Congress gave the declarations much anxious consideration. And the A.I.C.C. passed a resolution on 14th June declaring that the Congress did not agree to the theory of Paramountcy as enunciated by the British Government, and that the lapse of Paramountcy did not lead to independence.[43] Mr. Jinnah, on the other hand, issued a statement on 18th June, in which he contested the Congress view-point. He held that, on the lapse of Paramountcy, the States became independent and that, under the Cabinet Mission Plan, the States were free to join the Constituent Assembly or stay out.[44]

While there was a sort of confusion in the country, arrangements for winding up the Political Department were made. Political Agents or Residents were being withdrawn from the States.[45] So long, His Majesty's Representative operating through the Political Department provided the connecting link between the Indian States and the Central and Provincial

Governments. On the day of transfer of power and hence also lapse of Paramountcy, the office of His Majesty's Representative and, along with it, the Political Department were necessarily to be terminated. It was clear that if, in consequence of the lapse of Paramountcy, "the States became separate independent entities, there would be a serious vacuum not only with respect to the political relationship between the Central Government and the States but also in respect of the co-ordination of all-India policies in the economic and other fields."[46] Now, the Political Department stuck fast to the theory that, on the lapse of Paramountcy, the States would automatically be absolutely independent. To avoid the possibility of complete chaos on the day of transfer of power, it prepared the draft of a Standstill Agreement between any State on the one hand and the Government of either of the proposed Dominions on the other hand, and it also intended to negotiate with the States on the basis of this draft. This draft was made with a vengeance. It showed that, before its extinction, the Political Department meant to encourage the States to declare independence and negotiate with a successor Government from a position of absolute sovereignty. But the machinations of the Political Department could not continue. It was deprived of the charge of the negotiations. On the demand of British Indian politicians, Lord Mountbatten had to set up a States Department in the Interim Government. This Department took charge of the negotiations with the States with regard to their future relationship with either of the Dominions. Very soon, the Indian Independence Act, 1947, facilitated the process.

Provision was made in the Indian Independence Act for the continuance, until denounced by either of the parties, of agreements between the Indian States and the Central or Provincial Governments, as the case might be, in regard to specified matters, such as customs, posts and telegraphs, etc.[47]. Moreover, the Indian Independence Act provided that its provisions defining the territory of the new Dominions must not be construed as preventing the accession of Indian States to either of the new Dominions.[48] Again, the Indian Independence Act

provided for adaptations by the Governor-General of the Government of India Act, 1935. There was, therefore, a possibility that the States might accede to either Dominion in accordance with the provisions of that Act suitably adapted. In fact, Section 6 of the Government of India Act, 1935, was later modified so as to make it possible for a State to accede to the Dominion of India by executing an Instrument of Accession to be accepted by the Governor-General.[49]

Immediately after the announcement of the 3rd June Plan, the Congress members of the Interim Government had tried to persuade the States to accede to the future Dominion of India.

Then, even before the Indian Independence Act was passed, the Interim Government decided to set up the States Department. In a Press *Communique'* issued on 27th June, the Interim Government announced its decision as follows :—

"In order that the successor Governments will each have an organisation to conduct its relations with the Indian States when the Political Department is wound up, His Excellency the Viceroy, in consultation with the Cabinet, has decided to create a new Department called the States Department to deal with matters arising between the Central Government and the Indian States.... The new Department will be organised in such a way and its work so distributed that at the appropriate time it can be divided up between the two successor Governments without any dislocation."[50]

The States Department formally came into being on 5th July.[51] On that day, Sardar Patel (who was in charge of the Indian section of this Department) issued an important statement defining the policy of the Government of India and inviting the States to accede to the proposed Dominion of India. He said :—

"..... We are on the threshold of independence..... The safety and preservation of these States (geographically contiguous to the proposed Indian Dominion) as well as of India demand unity and mutual co-operation between its different parts.

"When the British established their rule in India, they evolved the doctrine of Paramountcy which established the supremacy of British interests. That doctrine has remained undefined to this day, but in its exercise there has undoubtedly been more subordination than co-operation. Outside the field of Paramountcy there has been a very wide scope in which relations between British India and the States have been regulated by enlightened mutual interests. Now that British rule is ending, the demand has been made that the States should regain their independence. In so far as Paramountcy embodied the submission of States to foreign will, I have every sympathy with this demand, but I do not think it can be their desire to utilise this freedom from domination in a manner which is injurious to the common interests of India or which militates against the ultimate paramountcy of popular interests and welfare or which might result in the abandonment of that mutually useful relationship that has developed between British India and the Indian States during the last century. This has been amply demonstrated by the fact that a great majority of Indian States have already come into the Constituent Assembly. To those who have not done so, I appeal that they should join now. The States have already accepted the basic principle that for Defence, Foreign Affairs and Communications they would come into the Indian Union. We ask no more of them than accession on these three subjects in which the common interests of the country are involved. In other matters we would scrupulously respect their autonomous existence.

".....I invite my friends, the Rulers of States and their people to the Councils of Constituent Assembly in the spirit of friendliness and co-operation in a joint endeavour, inspired by common allegiance to our motherland for the common good of us all.

"There appears a great deal of misunderstanding about the attitude of the Congress towards the States. I should like to make it clear that it is not the desire of the Congress to

interfere in any manner whatever with the domestic affairs of the States.....Nor would it be my policy to conduct the relations of the new Department with the States in any manner which savours of the domination of one over the other...Our common objective should be to understand each other's point of view and come to decisions acceptable to all and in the best interests of the country.

".....I hope the Indian States will bear in mind that the alternative to co-operation in the general interest is anarchy and chaos....."[52]

"The position, as it stood when the States Department came into existence, was that the Political Department had already sent to the Rulers a draft Standstill Agreement and it was proposed to call a conference of Rulers to finalise the Agreement. But having regard to the paramount necessity of the establishment of a constitutional relationship, however tenuous, between the States and the Dominion, the Government of India felt that a Standstill Agreement would not provide any kind of answer to the problem that confronted them at the time. It was, therefore, decided that the States Department, and not the Political Department, should take charge of the negotiations with the Rulers and that the accession of the States on the three essential subjects of Defence, External Affairs and Communications should be included in the agenda of the proposed Conference."[53]

Lord Mountbatten, who was the Governor-General as well as His Majesty's Representative, was entrusted by the Government of India with the charge of conducting negotiations with the Princes.[53]

The Conference of the Rulers and representatives of the Indian States was held on 25th July.

By that time, the States Department "had produced a draft Instrument of Accession and revised the original draft of the Standstill Agreement prepared by the Political Department."[54] Both these drafts were circulated among the

Rulers at the Conference. It was now clear that the Indian section of the States Department proceeded simultaneously on two lines. It tried to persuade the States to establish constitutional relationship with the Dominion of India, i.e., to accede to the Dominion of India on three subjects—defence, external affairs and communications. At the same time, to guard against any unilateral denunciation of existing agreements by any Prince, it proposed to conclude Standstill Agreements virtually for the continuance, in so far as might be appropriate, of the existing agreements and administrative arrangements as to matters of common concern.

In the course of his address to the Conference of the Rulers and representatives of Indian States, Lord Mountbatten said :—

"Now, the Indian Independence Act releases the States from all their obligations to the Crown. The States have complete freedom—technically and legally they are independent.... But there has grown up during the period of British administration, owing to the fact that the Crown Representative and the Viceroy are one and the same person, a system of co-ordinated administration on all matters of common concern.....That link is now to be broken. If nothing can be put in its place, only chaos can result, and that chaos will hurt the States first.... The first step was to set up some machinery by which it was possible to put the two future Governments of India—the Dominions of India and Pakistan—into direct touch with the States. So we conceived the scheme of setting up two States Departments within the future Governments. Please note that these States Departments are not the successors of the Political Department.....While the Political Department exercised functions relating to paramountcy..the States Departments are to take over those subjects gradually which have nothing to do with paramountcy but which will be concerned with relations with neighbouring States and also provide the machinery to negotiate in such matters.....It was necessary to set up two States Departments, one in each Government because the States are theoretically free to link their future with whichever Dominion they may care. But when I say that they are at liberty to link up with either of the

Dominions, may I point out that there are certain geographical compulsions which cannot be evaded. Out of something like 565 States, the vast majority are irretrievably linked geographically with the Dominion of India. The problem therefore is of far greater magnitude with the Dominion of India than it is with Pakistan.....

"I am sure you will agree that these three subjects (defence, external affairs and communications) have got to be handled for your convenience and advantage by a larger organisation. This seems so obvious that I was at a loss to understand why some Rulers were reluctant to accept the position. One explanation probably was that some of you were apprehensive that the Central Government would attempt to impose a financial liability on the States or encroach in other ways on their sovereignty. I think I must dispel their apprehensions and misgivings. The draft Instrument of Accession which I have caused to be circulated as a basis for discussion.....to the representatives of the States provides that the States accede to the appropriate Dominion on three subjects only without any financial liability. Further, that Instrument contains an explicit provision that in no other matters has the Central Government any authority to encroach on the internal autonomy or the sovereignty of the States. This would, in my view, be a tremendous achievement for the States.....Remember that the day of the transfer of power is very close at hand and, if you are prepared to come, you must come before the 15th August. I have no doubt that this is in the best interests of the States, and every wise Ruler and wise Government would desire to link up with the great Dominion of India on a basis which leaves you great internal autonomy and which at the same time gets rid of your worries and cares over External Affairs, Defence and Communications."[55]

The meeting of the Rulers and representatives of Indian States then set up a Committee, proposed by Lord Mountbatten, "to negotiate on behalf of the States the terms of their accession to the Dominion of India."[56]

The negotiations were completed in a very short time and, with the exception of Hyderabad, Kashmir, Junagadh and two small States under Muslim Rulers in Kathiawar, the States geographically contiguous to India had signed the Instruments of Accession and the Standstill Agreements by 15th August, 1947[57]— these being effective as from that date. On 14th August, the States Ministry had taken charge of all the residencies from the Political Department.[58] So, not only in law but also in fact, the Dominion of India that came into existence on 15th August 1947, was a Union.[59] The Union comprised the acceding States[60] and a number of former British Indian Provinces.

The main Instrument of Accession provided for the accession of States to the Indian Dominion on three subjects, namely, defence, external affairs and communications as defined in List I of the 7th Schedule to the Government of India Act, 1935, and as reproduced in a Schedule attached to the Instrument. This Instrument of Accession was accepted only from those States which had full jurisdiction. Their number was 140. By executing this Instrument, the Ruler of such a State agreed that the Governor-General of India, the Dominion Legislature, the Federal Court and any other Dominion authority established for the purposes of the Dominion would, by virtue of the Instrument of Accession but subject always to the terms thereof, and for the purposes only of the Dominion, exercise in relation to the State such functions as might be vested in them by or under the Government of India Act, 1935, as in force in India on the 15th day of August, 1947.[61]

In addition to these 140 States that enjoyed full jurisdiction, about 370 other States of a lower status acceded to the Indian Dominion. Of these, about 300 States were Estates and Talukas where the control of the British Crown had been exceedingly large. For these, a separate Instrument of Accession was devised. "This document, while preserving the form of accession vested all the residuary powers and jurisdiction in the Central Government."[62]

About 70 States had an intermediate status, higher than that of the Estates and Talukas but lower than that of the fully empowered States.[63] In respect of these States, His Majesty's Representative had exercised certain powers and jurisdictions. For them, another Instrument of Accession was arranged. The Instrument of Accession executed by the Rulers of these States gave to the Dominion of India not only such powers as were given by the 140 fully empowered States but also such other powers and jurisdiction as had been exercised by His Majesty's Representative.[64] The additional provision of the Instrument of Accession executed by the Ruler of such a State may be quoted below :—

".....And I further declare that the Dominion of India might, through such agency or agencies, and in such manner, as it thinks fit, exercise in relation to the administration of civil and criminal justice in this State all such powers, authority and jurisdiction as were at any time exercisable by His Majesty's Representative for the exercise of the functions of the Crown in its relations with Indian States."[65]

Standstill Agreements were also entered into between the Dominion Government and the acceding States. These Agreements provided for the continuance, until other agreements would be made, of "all agreements and administrative arrangements as to matters of common concern now existing between the Crown and any Indian State.....in so far as may be appropriate." In particular, the matters referred to included such matters as were specified in the Schedule to the Agreement, namely : control of commodities ; currency and coinage ; customs ; import and export control ; posts, telegraphs and telephones ; etc.[66]

The decision of the Indian States to accede to the Indian Dominion was of great historical significance. For the first time, the dream of a federal India consisting of both the Provinces and the States was realised. After several centuries and in the face of a host of difficulties, India was, in this respect, united into a single constitutional entity.

CONCLUSION

The constitutional development of India during the decade 1937-47 signifies a rapid transition from dependence to complete independence. The era of Provincial autonomy ushered in by the Government of India Act, 1935, came to a halt during the war. But it was exactly at that time that the most pressing demands were made upon the British Government for the acknowledgement of India's independence. When the war ended, it was no longer possible for the British Government to continue its hold over India. Hence, it relinquished its powers of administration of India. The India which was thus freed from British control was a divided India. Nevertheless, it was, in a sense, a united India because most of the Indian States acceded to the federal Union of India.

There are, therefore, three distinct features of this development. One is towards complete independence ; the second is towards partition and the third is towards federalisation.

The status of independence involved primarily the determination of the constitution of India by the Indians themselves. The culminating point in the history of India's constitutional advance was the transfer of constituent power to India. Side by side with the process towards this culminating point, a development towards a fully responsible government is also discernible.

The outbreak of World War II added an impetus to the Indian struggle for freedom. It offered to the Congress a crucial occasion to prove the inadequacies of the constitution. It showed to the country that there was no alternative to combating the Government of India Act, 1935—precisely the purpose for which the Congress had entered the Legislatures in 1937. The test of sovereignty is the right to declare war. The Government of India Act, 1935, had reserved that right

exclusively to the British Government. No consultation with the Indian Legislature was required and, in fact, the views of the Indians were not sought at all. Moreover, the war aims, so far as these were explained, did not in the least include the aims and objects of the nationalist Indians even though they were as anti-fascist as the British. India's belligerency in World War II, without consulting Indian opinions, and then the lamentable lack of a definition of war aims, constituted a severe blow to the national pride and dignity of Indians. The curtailment of Provincial autonomy without the consent of representative Indians also made the situation more deplorable. It was, therefore, on entirely unassailable grounds of national dignity that the Congress could now combat the Act of 1935 more vigorously than before.

Whatever may be the evils of the resignation of the Congress Ministries, there is no denying the fact that by such resignation the Congress accelerated the pace of the freedom movement. If it had not resigned and had co-operated with the Governors in their policies, then possibly the Ministries would not have been dismissed. But the question remains : Would the British Government have cared to withdraw from India ? It could still retain its control over India with a depleted armed force and with a fewer number of civil servants. Congress resignation, being a part of the Indian struggle for independence, stands justified.

It is for the same reason that the Congress refusal to accept the Cripps Proposal deserves credit. Though there is much in common between the Cripps Proposal and the 3rd June Plan which formed the basis of the Indian Independence Act, 1947, yet we must not lose sight of at least two facts. The 3rd June Plan proposed to transfer power without the slightest delay, while the Cripps Proposal contemplated such transfer in an uncertain future. Again, the cessaion of sovereignty by the Indian Independence Act was not fettered by any provision for safeguarding the interests of minorities, while such a condition precedent was an essential feature of the Cripps Proposal.

The sovereignty that was ceded through the Indian Independence Act was absolute and unreserved. Technically, of course, what happened on 15th August, 1947, was a grant of power. But the Parliament that granted that power made the grantee, speaking even from the standpoint of law, competent enough to cease to recognise the validity of the instrument of grant. In relation to India, in fact, the grantor, by passing the Indian Independence Act, signed its death warrant. The Indian Independence Act, while creating two independent Dominions, gave them the right to repeal or amend any existing or future Act of Parliament, extending to either Dominion, including the Indian Independence Act itself.[1] In this connection, it is worthwhile to point out that the Constitution of India framed by the Constituent Assembly. repealed the Indian Independence Act.[2]

The factors making for the withdrawal of the British power from India are as much the growth of the nationalist spirit in India and the weakening of Britain's strength as a rising liberalism and a programme of anti-imperialism in Britain itself.

The coming of the anti-imperialist Labour Party to power marked a turning point in the history of the relation between Britain and India. The bold decision of the Attlee Government to withdraw from India was an act of statesmanship. It was an honest acceptance of the facts of the situation.

Behind that decision was also the growth of that humanitarianism which inspired some large-hearted Europeans as early as the era of the French Revolution, had a hold on the Gladstonian liberals, and gradually spread among the common folk. It was this humanitarianism which animated Sir Thomas Munro, Governor of Madras (1820-27), who, as early as 1824, had looked forward to the day of eventual British withdrawal from India.

Sir Thomas Munro, of course, was one of the pioneers of the imperialist humbug that the British must bear the white man's burden of Hellenising the barbarians. But, at the same

time, he had the vision to assert, in the very beginning of British rule in India, that that rule must one day be terminated. In unmistakable language, he enunciated the objective of British administration of India. He said : "It ought undoubtedly to be our aim to raise the minds of the natives, and to take care that, whenever our connection with India might cease, it did not appear that the only fruit of our dominion there had been to leave the people more abject and less able to govern themselves than when we found them. Many different plans may be suggested for the improvement of their character, but none of them can be successful unless it be first laid down as a main principle of our policy that the improvement must be made. This principle once established, we must trust to time and perseverance for realising the object of it .....We should look upon India, not as a temporary possession but as one which is to be maintained permanently until the natives shall in some future age have abandoned most of their superstitions and prejudices and become sufficiently enlightened to frame regular government for themselves and to conduct and preserve it. Whenever such a time shall arrive, it will probably be best for both countries that the British control over India should be gradually withdrawn. That the desirable change contemplated may in some after age be effected in India, there is no cause to despair."[3]

The obligation outlined here by Sir Thomas Munro in 1824 held the attention of an increasingly larger number of the British administrators of India ; and the idea that a time would come when it would "be best for both countries that the British control over India should be gradually withdrawn" gained, in course of time, a definite foothold among the British people. In a democracy where freedom of speech obtains, it is possible for a section of opinion to gain in strength so as to govern the policy of the country. Withdrawal of power was merely a pious wish in 1824. It was completely effected in 1947. At the time Sir Thomas Munro wrote his minute, his was the voice of an insignificant minority. But, in course of time, the policy

enunciated by him became the accepted policy of the majority in which the conservative minority had to acquiesce.

The Labour Party, of course, advocated the liquidation of the Empire on many reasonable grounds in addition to humanitarian obligations. But, when the die-hard Conservatives opposed the complete independence of India on the ground that that would be a betrayal of the former commitments and obligations to the Princes, the minorities, and the like, the Labour Party could point to the far stronger commitments that had been made not only in recent times but even much earlier, at least in theory. Mr. Attlee, indeed, echoed the voice of his countrymen when, in reply to the objections of the Conservative Party during the second reading of the Indian Independence Bill, he asserted that it was "the fulfilment of Britain's mission in India."[4]

The trend of events leading to the transfer of power to Indian hands was coupled with a trend towards the establishment of responsible government in India. It may be recalled that the Government of India Act, 1935, had provided for responsible government with safeguards. The Congress was determined to remove the safeguards. It had accepted office on that pledge. Its resignation from office was a demonstration of the fact that the safeguards were intended to serve as a clog in the wheel of responsible government.

Throughout the period of the war, the Congress wanted to establish some conventions of responsible government. This was the underlying idea of the Congress demand for a National Government. What the British Government did do in response to the demand for a National Government was to expand the Executive Council of the Governor-General with more Indians on it. No constitutional change was effected.

The Interim Government that was set up under the Cabinet Mission Plan was intended to act as a Cabinet responsible, in practice, to the Central Legislature, though, as yet no legal change was made. It was during the working of the Interim

Government that the safeguards appeared in their most lurid light. Though the Interim Government was assured to have "the greatest possible freedom" in day-to-day administration, freedom was found to be impossible in cases of safeguards, even in day-to-day administration. The Congress members of the Interim Government had indeed a bitter experience when they were thwarted by safeguards in the course of taking necessary action even in minor affairs. This was disclosed later by Sardar Patel, the then Home member of the Interim Government. As Home member of the Interim Government, he considered it essential to remove the District Magistrate of Gurgaon which was then all ablaze due to communal riots. He failed to do so on account of the paraphernalia of the safeguards in respect of the protected services, and the special powers of the Governor-General and the Governors. The irritation caused to the Congress leaders was clearly revealed in November, 1949, when, in the course of a debate in the Constituent Assembly, Sardar Patel said : "I wrote to the then Governor of the Punjab, I pleaded with the Viceroy, but I found it difficult to remove him (the District Magistrate of Gurgoan) and you know the havoc that was played in Gurgaon and these other districts. It was not in the Punjab alone ; in other places also many such things were done.....Then we insisted that we had come to a stage when power must be transferred immediately whatever happened and then we decided to resign."[5]

The safeguards, indeed, were not removed till the withdrawal of British power. It was the Indian Independence Act, 1947, that introduced a completely responsible government in India. With the establishment of two independent Dominions, the safeguards and special powers were removed. The Governor-General and the Governors became constitutional rulers.

Along with the process of development towards responsible government, there was a tendency towards the division of the country.

Ever since the passing of the Act of 1935, the British Indian

Provinces had been divided into two groups, namely, (1) Provinces with a statutory Muslim majority in the Legislature and (2) others. This brought the Muslim League into a prominent position. The League now claimed to be the sole representative of the Muslim population of India. The discontent of the Muslim League against Congress administration was fully expressed by its observance of the Day of Deliverance after the Congress Ministries had resigned. In fact, the vacuum created by the Congress withdrawal of the Ministries was fully utilised by the League to strengthen itself.

At the Lahore session, the League came out with an official demand for partitioning the country and asserted that no constitutional plan would be acceptable to the Muslims unless it was framed with their approval and consent. Henceforward, the Muslim League pressed the demand for Pakistan whenever there was any proposal for a constitutional reform.

The Muslim League's condemnation of the Congress rule and the Lahore resolution gave a handle to the British Government to turn down the Congress demand for independence and the establishment of responsible government at the Centre. The August Offer is a pointer to this.

In the Cripps Proposal, there was, for the first time, a definite commitment on the part of the British Government to partition India. At the time of the Cripps Mission, the Congress very nearly accepted the principle of territorial self-determination though it was careful to add that the acceptance of the principle inevitably involved that no changes should be made which resulted in fresh problems being created and compulsion being exercised on other substantial groups.

Political events after the Cripps Mission were moving in such a direction that no constitutional plan was worth discussion unless it was based on the principle of partition ; nor was a reconstruction of the Central Executive possible without some sort of parity between the Congress and the Muslim League or between Hindus and Muslims. Since the Cripps Proposal, the Congress had been torn between the ideal of unity and

the necessity of partition on the ground of territorial self-determination.

The Cabinet Mission Plan was a sort of compromise between union and division of British India. The reasons why this Plan failed are too complicated to be repeated here. Troubles arose over the interpretation of the Plan.

Ultimately, under the 3rd June Plan, the possibility of partition had to be accepted as the only solution. The responsibility for deciding the issue was thrown squarely on the people themselves.

Here, it is pertinent to compare and contrast the Cripps Proposal, the Cabinet Mission Plan and the 3rd June Plan with respect to the partition of the country. All these schemes, of course, envisaged partition to be determined by the Indians themselves. But some points of difference may be noted. As regards the time factor, the Cripps Proposal hinted at partition immediately after the making of the Constitution, the Cabinet Mission Plan permitted partition ten years after the making of the constitution and then again at ten-yearly intervals, and the 3rd June Plan permitted partition then and there even before the making of the constitution. As regards the areas to be divided, both the Cripps Proposal and the Cabinet Mission Plan envisaged a Provincewise partition of India but the 3rd June Plan envisaged the division of the Provinces as well. As regards the number of the independent states to be created by partition, both the Cripps Proposal and the Cabinet Mission Plan would have made it possible for as many independent states to emerge as there were Provinces whreas the 3rd June Plan limited the number to two only.

The Congress' responsibility for the partition of the country is based on the fact that it failed to counter the Communal Award and convince the Muslim electors of the benefits of unity and non-communal democracy.

Independence was the first in its list of priorities. This being the case, it did not pay so much attention to ordinary

electoral matters. It maintained a neutral attitude to the Communal Award. Yet it worked so little on the purely parliamentary front that it made no special efforts to win the votes of the Muslim electors and so to counter the separatist features of the Communal Award. At the time of the elections of 1936-37 it did not even set up candidates for most of the Muslim seats. This was, indeed, a serious blunder. By hesitating to set up candidates for the Muslim seats, the Congress practically confessed that it had no great hold over the Muslim community. The elections of 1936-37 were an eye-opener to the Congress. To make amends, it launched a mass contact movement. But its mass contact efforts were not sufficient for counteracting the separatist tendencies confirmed by the Communal Award. Being composed of a majority of Hindus, the Congress was unable to establish itself among the Muslims as against Muslim communalists. Thus the field was lost. The years following the resignation of the Congress Ministries gave the Muslim League great opportunities of consolidating its position among the Muslim voters. As a result, it captured almost all the Muslim seats in the elections of 1945-46. Hence, there was no denying the fact that the League established its position finally as the sole representative organisation of the Muslims of India. The Cabinet Mission and the Viceroy were guided by the elections of 1945-46.

The issue of partition was decided in 1947 primarily by the members of the Legislative Assemblies of the Provinces concerned. Hence one reaches the inevitable conclusion that the half-hearted parliamentary activities of the Congress, inhibited by the Communal Award, and not adequately strengthened by mass contact efforts, led it to a position in which independence had to be achieved at the cost of the partition of British India. The Congress had to accept partition, for, though it was against its objective, it failed to carry with it the people of some areas and the far greater objective of the Congress was to accept the verdict of the people.

Now, the question is : Did the Congress, by acceptin

partition, accept the two-nation theory ? The answer is neither fully positive nor fully negative. The Congress accepted only the territorial division of the country but not the two-nation theory as such. The official documents nowhere mention the Muslims as a nation. But there remains the question whether the territorial division was based on Muslim-majority considerations. Hence, there is hardly any escape from the fact that, by accepting the territorial division of the country mainly on the basis of the differences between Muslims and non-Muslims, the Congress virtually accepted, in a way, the two-nation theory. The matter, however, ended there : for, neither in India nor in Pakistan are the Muslims and non-Muslims respectively considered in law to be aliens.

While the constitutional development thus led to the partition of British India, it also led to a federal union with Indian States. Paramountcy having lapsed, most of the Indian States acceded to India and Balkanisation was avoided.

Some of those who make the Congress responsible for the partition of British India point to the Congress intransigence with respect to the Federal scheme of the Act of 1935 as the ground of such responsibility. According to them, had the Congress accepted the Federal scheme of the Act of 1935, the defects and anomalies could really have been wiped out in the actual working of the constitution and, moreover, the partition of India might have been averted. These thinkers, it is needless to say, consider the partition of India as an unmitigated evil.

History, of course, is full of might-have-beens. But, in connection with the line of argument stated above, several questions may be raised.

Could the Congress, by accepting the Federal scheme of the Act of 1935 and entering a Federal Council of Ministers, have been in a position, in fact, to liquidate the plethora of safeguards running through that Act ? Even the Interim Government had to feel the sting. It is doubtful if a party

agreeing to work the scheme of the Act of 1935 as it stood could have made a dead letter of the very real provisions for restrictions.

Further, was the Congress, in fact, the villain of the piece ? Would the Federation under the Act of 1935 have materialised if only the Congress had accepted the scheme ? Perhaps, it was not the Congress but the Indian States that constituted the real stumbling block. The fact that the establishment of the Federation was made dependent upon the accession of a requisite number of States was enough to make the plan unworkable. It made the Rulers put a premium on their accession. They raised their terms to insurmountable heights when they realised that, once they acceded to a Federation of India, the Congress Party would try to wipe out the safeguards in the Centre as it was doing in the Provinces. They could not overcome their hatred of the democratic politicians of the Congress. Having been placed in a position of advantage, they demanded so high a price for accession that it would really have made such accession an unwieldy burden. In a word, they refused to come under any scheme of responsible government. It was, in fact, this attitude of the Rulers of States that stood in the way of the Federal scheme of the Act of 1935. It was clear that the Rulers of States would not consent to any scheme of responsible government unless they were compelled to do so by force of circumstances. Such compelling circumstances were not at all present during 1937-39. It was only when the Rulers realised that, with the withdrawal of British power from India, there would be no Paramount Power to protect them that they agreed to accede to India.

Moreover, there is the question of the attitude of the Muslim League. There is no telling what line of action the Muslim League would have adopted, had the Congress decided to accept the Federal scheme of the Government of India Act, 1935. Would it have been gracious enough to accept majority-rule ? Would it not have revoited violently against

what it called Hindu Raj and rushed headlong towards a Day of Deliverance leading to partition ?

There is also the question whether a united India with its politics perpetually vitiated by communal dissension would have been more desirable than a divided India with its administration run on secular lines.

Notes and References

INTRODUCTION

1. These were specified by S.46 (1) of the Government of India Act, 1935. The Governors' Provinces signified the following :—Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar, the Central Provinces and Berar, Assam, the North-West Frontier Province, Orissa, Sind and such other Governors' Provinces as might be created under the Act.
2. These were specified by S. 311 (1). "Indian State" included any territory, whether described as a State, an Estate, a jagir or otherwise, belonging to or under the suzerainty of a Ruler who was under the suzerainty of His Majesty and not being part of British India.
3. These were specified by S. 94 (1). The Chief Commissioners' Provinces signified the following :—British Baluchistan, Delhi, Ajmer-Merwara, Coorg, the Andaman and Nicobar Islands, Panth Piploda, and such other Chief Commissioners' Provinces as might be created under the Act.
4. S. 5 (1), Government of India Act, 1935.
5. S. 5 (2), *Ibid.*
6. Report of the Joint Committee on Indian Constitutional Reform, Session 1933-34, vol. 1, part 1, p. 29.
7. S. 99(1), Government of India Act, 1935.
8. S. 100 and Seventh Schedule, Government of India Act, 1935.
9. S. 104, Government of India Act, 1935.
10. S. 101, *Ibid.*
11. S. 200-207, *Ibid.*
12. S. 7(1), *Ibid,*
13. S. 3(1), *Ibid.*
14. S. 11(1), *Ibid.*
15. Government of India Bill—Explanatory Memorandum, paragraph 9. See Cmd. 4790
16. S. 9(1), Government of India Act, 1935.
17. Cmd. 4805—See Instrument of Instructions to the Governor-General, paragraph IX.
18. S. 10(1), Government of India Act, 1935.
19. S. 10(2), *Ibid.*
20. S. 10(3), *Ibid.*

21. S. 49(1), *Ibid.*
22, 23 & 24. S. 50(1), *Ibid.*
25. S. 48(1), *Ibid.*
26. S. 51(1) & S. 51(5), *Ibid.*
27. S. 51(3), *Ibid.*
28. S. 13, S. 53, *Ibid.*
29. Cmd. 4805—See Instrument of Instructions to the Governor-General, paragraph VIII.
30. Cmd. 4805—See Instrument of Instructions to the Governor-General, paragraphs XVII and XIX.
31. Cmd. 4805—See Instrument of Instructions to the Governor, paragraph VIII.
32. Government of India Bill—Explanatory Memorandum, paragraphs 9 & 10. See Cmd. 4790.
33. Cmd. 4805—See Instrument of Instructions to the Governor-General, paragraph IX ; Instrument of Instructions to the Governor, paragraph IX. See also Cmd. 4790, paragraph 10.
34. Minorities, in this context, signified only racial or religious minorities for whom special representation was accorded in the Federal Legislature and those backward classes who because of smallness of number or any other disadvantage could not fully rely on joint action in the Federal Legislature. Cmd. 4805—See Instrument of Instructions to the Governor-General, paragraph XI.
35. S. 12, Government of India Act, 1935.
36. S. 15, *Ibid.*
37. S. 43(1), S. 43(2) & S. 43(5), *Ibid.*
38. S. 44, *Ibid.*
39. S. 19(2) (a), *Ibid.*
40. S. 32(1), *Ibid.*
41. S. 10(5), *Ibid.*
42. S. 45, *Ibid.*
43. S. 62 (2) (a), *Ibid.*
44. S. 51(5), *Ibid.*
45. S. 75, *Ibid.*
46. S. 92, *Ibid.*
47. In the Provinces also, minorities signified racial or religious minorities to whom special representation was accorded in the Legislature and those classes of people who on account of the smallness of their number or for any other reason could not fully rely on joint action in the Legislature. Cmd. 4805—See Instrument of Instructions to the Governor, paragraph X.
48. S. 52, Government of India Act, 1935.
49. S. 89, *Ibid.*

50. S. 90, *Ibid.*
51. S. 93, *Ibid.*
52. S. 75, *Ibid.*
53. S. 14 and S. 54, *Ibid.*
54. S. 5(2), *Ibid.*
55. S. 6(2), *Ibid.*
56. First Schedule, *Ibid.*
57. S. 139 & S. 147, *Ibid.*
58. S. 126(1), *Ibid.*
59. S. 76, *Ibid.*
60. S. 102-103, *Ibid.*

CHAPTER I

1. The Government of India Act, 1935 (26 Geo. 5, Ch. 2).
2. Paragraph 4 of the Government of India (Commencement and Transitory Provisions) Order, 1936, No. 672.
   Also Governor-General's address in the Indian Legislative Assembly on 21st September, 1936---Legislative Assembly Debates (Official Report), 1936, vol. 7, p 1553.
3. These provisions were specified in S. 291 of, and in the Fifth and Sixth Schedules to, the Government of India Act, 1935.
4. Coupland—The Indian Problem (1833-1935), p. 152.
5. The Legislative Assembly Debates (Official Report), 1935, vol. 1, p. 267.
6. *Ibid.*, p. 569.
7. *Ibid.*, p. 576.
8. *Ibid.*, p. 279—Speech of Mr. Bhulabhai Desai. See also resolution passed by the Congress at its session at Haripura held from 19th to 21st February, 1938—Indian Annual Register, 1938, 1, pp. 297-298
9. Speech of Mr. Bhulabhai Desai—The Legislative Assembly Debates (Official Report), 1935, vol. I, p. 280.
10. Presidential Address of Mr. Subhas Chandra Bose at the Congress Session at Haripura, 19th February, 1938. See Indian Annual Register, 1938, I, p. 337.
11. *Ibid.*, p.345.
12. The Legislative Assembly Debates (Official Report), 1935, vol.I, p. 267.
13. *Ibid.*, p. 571.
14. *Ibid.*, p. 572.

15. Quoted in the Presidential address at the Haripura Session of the Congress. See Indian Annual Register, 1938, I, p. 339.
16. Resolution passed at the 49th session of the Congress held at Lucknow from 12th to 14th April, 1936. See Indian Annual Register, 1936, 1, p. 249.
17. D. Chakrabarty and C. Bhattacharyya—Congress in Evolution, p.30.
18. Congress Election Manifesto. See Indian Annual Register, 1935, II, p. 189. Also p. 205 re : Resolution passed at the Congress session at Faizpur in December, 1936.
19. Indian Annual Register, 1937, 1, p. 182.
20. Memorandum submitted by the Muslim Delegation to the Round Table Conference, Third session—Report, pp. 193-194.
21. The Legislative Assembly Debates (Official Report), 1935, vol. I, p. 576.
22. The Legislative Assembly Debates, 1935, vol. I, p. 268.
23. Mr. Jinnah's speech at the (Indian) Legislative Assembly—Debates, 1935, vol. I, p. 522 and pp. 524-525.
24. Indian Annual Register, 1936, I, p. 295.
25. Indian Annual Register, 1938, II, pp. 345-346.
26. Indian Round Table Conference, Second Session (7th September, 1931—1st December, 1931) Sub-Committees' Reports and Prime Minister's Statement, p. 3 (Third Report of the Federal Structure Committee).
27. White Paper on Indian States (Government of India Publication), p. 26.
28. The Legislative Assembly Debates (Official Report), 1939, vol.V, pp. 433-434.
29. D. N. Banerjee—Partition or Federation ? pp. 143-144.
30. P. Sitaramayya—The History of The Indian National Congress, vol. II, p. 109.
31. Indian Annual Register, 1939,1, pp. 41-51.
32. *Ibid.*, p. 46.
33. *Ibid.*, p. 12.
34. *Ibid.*, pp. 346-347.
35. Part XIII, Government of India Act, 1935.
36. S. 313(1), Government of India Act, 1935 ; S. 36(1), Government of India Act : Ninth Schedule to the Government of India Act, 1935.
37. S. 36(3), Government of India Act : Ninth Schedule to the Government of India Act, 1935.
38. S. 40(2), Government of India Act : Ninth Schedule to the Government of India Act, 1935.
39. S. 39, *Ibid.*
40. S. 38, *Ibid.*

41. S. 41(1), *Ibid.*
42. S. 41(2), *Ibid.*
43. S. 41(3), *Ibid.* Also S. 314(1), Government of India Act, 1935.
44. Indian Annual Register, 1939, 1, p. XXIII.
45. S. 63, Government of India Act : Ninth Schedule to the Government of India Act, 1935.
46. S. 63A, *Ibid.*
47. S. 63B(2), *Ibid.*
48. S. 63B, *Ibid.*
49. S. 63D. *Ibid.*
50. S. 63D. *Ibid.*
51. Coupland—Indian Politics (1936-1942), p. 232. Also, The Statesman's Year Book, 1947, p. 106.
52. S. 67A(1)-(6) Government of India Act : Ninth Schedule to the Government of India Act, 1935.
53. S. 67A(7), 67A (8) ; *Ibid.*
54. S. 68(1), *Ibid.*
55. S. 69(1), *Ibid.*
56. S. 72, *Ibid.*
57. S. 67B(1), *Ibid.*
58. S. 67B (2), *Ibid.*
59. S. 316, Government of India Act, 1935.
60. S. 314(1), *Ibid.*
61. Cmd. 5589—Return showing the results of Elections in India, 1937.
62. Indian Annual Register, 1937, 1, pp. 237-242 ; also p. 178 and p. 216. Also Parliamentary Debates, House of Lords (Official Report), 8th April, 1937, vol. 104—Speech of Marquess of Lothian.
63. Speech of Lord Zetland—House of Lords, 8th April, 1937.
64. Indian Annual Register, 1937, 1, pp. 264-270(d).
65. Indian Annual Register, 1937, II, p.2.
66. Assam Legislative Assembly Debates, 1938, vol, II, p. 629.
67. Bengal Legislative Assembly Debates, 1937, vol. L.
68. Punjab Legislative Assembly Debates, 1937, vol.I.
69. Coupland—Indian Politics, (1936-1942), p. 56.
70. Assam Legislative Assembly Debates, 13th September, 1938, See vol. II, p. 622.
71. *Ibid.*, p. 629.
72. Coupland—Indian Politics (1936-1942), p. 66.
73. *Ibid.*
74. B. P. Singh Roy—Parliamentary Government in India, p. 233.
75. Coupland—Indian Politics (1936-1942), p. 118.
76. *Ibid.*, pp. 120-121.
77. *Ibid.*, p. 96.

78. The Governor's Province of Orissa and the Governor's Province of Sind were created by Orders-in-Council promulgated on 3rd March 1936, and the North West Frontier Province was raised to the status of a Governor's Province with a Legislative Assembly. See Coupland—The Indian Problem (1833-1935), p. 134.
79. Muslim League Election Manifesto issued by the All-India Muslim League Parliamentary Board, See Indian Annual Register, 1936, 1, p. 301.
80. Coupland—Indian Politics (1936-1942), pp. 179-194.
81. B. P. Singh Roy—Parliamentary Government in India, pp. 259-263.
82. Indian Annual Register, 1939, II, p. 345.
83. *Ibid.*, p. 348.
84. Indian Annual Register, 1938, II, p. 356.
85. Indian Annual Register, 1939, I, p. 366.
86. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 39. Also speech of Lord Zetland—Parliamentary Debates, House of Lords (Official Report), 14th December, 1939, vol. 115.

CHAPTER II

1. Gazette of India Extraordinary, 3rd September, 1939.
2. Indian Annual Register, 1939, II, p. 21.
3. In April, 1939, Indian troops had been sent to Aden.
4. In April, 1939, The Government of India Act (Amendment) Bill was introduced in Parliament. It received Royal assent on 1st September, 1939.
   See Coupland—Indian Politics (1936-1942), pp. 209-210.
   Also, The Government of India Act (Amendment)Act, 1939—2 & 3 Geo. 6, Ch. 66.
5. Speech of Lord Zetland—Parliamentary Debates, House of Lords (Official Report), 25th April, 1939, vol. 112.
6. *Ibid.*
7. *Ibid.*
8. *Ibid.*
9. Resolution of the A.I.C.C. on 1st May, 1939—See Indian Annual Register, 1939, 1, p. 351.
10. Legislative Assembly Debates (Official Report), 1938, 1, p. 664.
11. Resolution of the Congress Working Committee, 9th—12th August, 1939—See Indian Annual Register, 1939, II, p. 214.
12. Parliamentary Debates, House of Lords (Official Report), 18th October, 1939, vol. 114.

13. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 140.
14. Indian Annual Register, 1939, II, p. 214.
15. Indian Annual Register, 1939, II, p. 65 and p. 94.
16. Gazette of India Extraordinary, 3rd September, 1939.
17. Legislaive Assembly Debates (Official Report), 1939, vol. V, p. 362. and p. 793.
18. Legislative Assembly Debates (Official Report), 1939, vol. V, pp. 433-434.
19. Cmd. 6121, Appendix D.

CHAPTER III

1. Indian Annual Register, 1939, II, p. 21.
2. *Ibid.*, p. 22.
3. *Ibid.*, pp. 226-228.
4. Cmd. 6121, Appendix B. This resolution was approved by the A.I. C.C. on 10th October, 1939—See Cmd. 6121, Appendix C.
5. Cmd. 6121, Appendix D—The League Working Committee's resolution passed on 18th September, 1939.
6. On 15th October, 1937, the Chief Ministers of Bengal and the Punjab joined the Muslim League. See Indian Annual Register, 1937, II, p. 12.
7. The Unionist Party's War Resolution was passed by the Punjab Assembly on 6th November, 1939—See the Punjab Legislative Assembly Debates (Official Report), vol. X, p. 593. For Bengal, see War Resolution moved by the Chief Minister and passed by the Bengal Assembly on 18th December, 1939—Proceedings of the Bengal Legislative Assembly (Official Report), 1939, vol. LV, pp. 260 -262.
8. Indian Annual Register, 1940, I, p. 400.
9. Parliamentary Debates, House of Lords (Official Report), 26th September, 1939, vol. 114.
10. *Ibid.*, 27th September, 1939, vol. 114.
11. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 136.
12. Cmd. 6129—Announcement made by the Governor-General on 6th November, 1939.
13. Cmd. 6121, Appendix C.
14. Cmd. 6121.

15. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 139.
16. Parliamentary Debates, House of Lords (Official Report), 18th October, 1939, vol. 114.
17. Cmd. 6129.
18. Indian Annual Register, 1939, II, p. 393.
19. *Ibid.*, p. 236.
20. *Ibid.*, pp. 214-215.
21. *Ibid.*, p. 237.
22. Indian Annual Register, 1939, II, p. 237.
    The Muslim League amendment to this was to the effect that the British Government should not make any commitment without the consent and approval of the League and that the whole constitutional plan shoud be revised *de novo*.
23. *Ibid.*, p. 36.
24. *Ibid.*, p. 37.
25. Resolution of the Congress Working Committee—See Indian Annual Register, 1939, II, p. 236.
26. Resolution of the Working Committee of the Muslim League passed on 22nd October, 1939—See Indian Annual Register, 1939, II, pp. 352-353.
27. Proclamations were issued by the Governors on the following dates:—Madras—30th October, 1939 ; Bombay—4th November, 1939 ; U.P. —3rd November, 1939 ; C.P.—10th November 1939 ; Bihar—3rd November 1939 ; N.W.F.P.—10th November 1939 ; Orissa—6th November 1939. See Parliamentary Debates, House of Lords (Official Report), 18th April, 1940, vol. 116.
28. Coupland—Indian Politics (1936-1942), p.234.
29. Indian Annual Register, 1939, II, p. 42.
30. Indian Annual Register, 1941, II, pp. 43-46.
31. Indian Annual Register, 1942, II, p. 22.
32. Indian Annual Register, 1941, II, p. 37.
33. The India and Burma (Temporary and Miscellaneous Provisions) Act, 1942—5 & 6 Geo 6, Ch. 39.
34. Cmd. 6129.
35. Indian Annual Register, 1939, II, p. 348.
36. B.R. Ambedkar—Pakistan Or The Partition of India, pp. 25-27.
37. Cmd. 6129. Mr. Jinnah refers to the A.I.C.C.'s resolution of 10th October, 1939.
38. Indian Annual Register, 1939, II, p. 46.
39. A. C. Banerjee—The Making of the Indian Constitution, pp.7-9.
40. Indian Annual Register, 1939, II, p. 51.
41. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 147.

42. Coupland—Indian Politics, (1936-1942), p. 234.
43. Congress Election Manifesto. See Indian Annual Register, 1936, II, p. 189.

CHAPTER IV

1. Cmd. 6196—India and the War.
2. Table showing the size of Muslim and Non-Muslim population in the north-western and eastern zones of India according to the census taken in 1941 :—

	Muslim	Non-Muslim
North-Western Zone :		
Punjab	16,217,242	12,201,577
North-West Frontier Province	2,788,797	249,270
Sind	3,208,325	1,326,683
Baluchistan	438,930	62,701
Total	22,653,294	13,840,231
Percentage in North-Western Zone	62-07%	37.93%
Eastern Zone :		
Bengal	33,005,434	27,301,091
Assam	3,442,479	6,762,254
Total	36,447,913	34,063,345
Percentage in Eastern Zone	51.69%	48.31%

3. D. N. Banerjee—Partition or Federation ? p. 18.
4. Presidential address of Mr. Jinnah at the Muslim League Session at Lahore, March, 1940. See Mansergh—Documents and speeches on British Commonwealth Affairs, 1931-52, vol.II, pp. 609-612.
5. B. R. Ambedkar—Pakistan Or The Partition Of India, p. 31.
6. Rajendra Prasad—India Divided, p. 95.
7. *Ibid.*, p. 97.
8. *Ibid.*, pp. 16-17.
9. *Ibid.*, pp. 16-17.
10. B. R. Amebedkar—Pakistan Or The Partition Of India, pp. 287-288. Also, Rajendra Prasad— India Divided, pp. 217-218.
11. B. R. Ambedkar—Pakistan Or The Partition of India, pp. 17-19.
12. Rajendra Prasad—India Divided, p. 215.
13. *Ibid.*, pp. 40-53.
14. B. R. Ambedkar—Pakistan Or The Partition Of India, p. 15.
15. *Ibid.*

16. According to the details of population by communities as given in the Census of India, 1941, there were 793.98 lakhs of Muslims in a total population of 2958.00 lakhs in British India.
17. Census of India 1941 :—

	Total (in lakhs)	Hindus including Scheduled Castes (in lakhs)	Muslims (in lakhs)
Population of Bengal :	603.07	250.59	330.05
		41.5%	54.7%

Rest—other non-Muslims including Christians, Sikhs, Tribals, etc.

Therefore, non-Muslims in Bengal 45.3%

Population of Assam :	102.05	42.13	34.42
		41.2%	33.7%

Rest—Other non-Muslims, including Tribals who constituted 24.3% of the population.

Therefore, non-Muslims in Assam=66.3%

So, out of a total population of 705.12 lakhs of the two Provinces, the Muslims constituted 364.47 lakhs, i.e., about 52% of the total. The non-Muslims, therefore, constituted about 48% of the total population.

18. B. R. Ambedkar—Pakistan Or The Partition Of India, pp. 25-30.
19. *Ibid.*, p. 26. Also, Rajendra Prasad—India Divided, p. 153.
20. B. R. Ambedkar—Pakistan Or the Partition of India, pp. 26-30.
21. Needless to say, in those Provinces (e.g., Bihar and Orissa) where no League member was elected to the Legislatures, any such coalition was out of the question.
22. Rajendra Prasad—Autobiography, pp. 446-447.
23. See p. 13.
24. B. R. Ambedkar—Pakistan Or The Partition of India, p. 29.
25. Rajendra Prasad—India Divided, pp. 146-156.

CHAPTER V

1. Harijan, 19th November, 1939.
2. Indian Annual Register, 1939, II, p. 238.
3. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 157.
4. Parliamentary Debates, House of Commons (Official Report), 26th October, 1939, vol. 352.

5. Parliamentary Debates, House of Lords (Official Report), 14th December, 1939, vol. 115.
6. P. Sitaramayya—The History Of The Indian National Congress, vol.II, p. 154.
7. Decision of the Congress Working Committee, 21st December, 1939 —See Indian Annual Register, 1939, II, p. 50.
8. The speech of Sir Hugh O'Neill, Under-Secretary of State for India— See Parliamentary Debates, House of Commons (Official Report), 18th April, 1940, vol. 359.
9. *Communique´* issued by the Governor-General, 5th February, 1940— See Cmd. 6196, Item 1.
10. *Ibid.*
11. Cmd. 6196, Item II—Resolution adopted by the Indian National Congress at its Ramgarh Session, 20th March, 1940.
12. *Ibid*—Resolution of the Muslim League.
13. Parliamentary Debates, House of Commons (Official Report), 23rd May, 1940, vol. 361.
14. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 191.
15. The India and Burma (Emergency Provisions) Act, 1940—3 & 4 Geo. 6, Ch. 33.
16. Indian Annual Register, 1940, II, p. 175.
17. *Ibid.*
18. *Ibid.*, pp. 176-177.
19. *Ibid.*, p. 195.
20. *Ibid.*, p. 4.
21. Cmd. 6219.
22. Parliamentary Debates, House of Commons (Official Report), 14th August, 1940, vol, 364.
23. Cmd. 6235—Statement by the Governor-General to the Indian Legislature on 20th November, 1940.
24. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 206.
25. *Ibid.* pp. 206-207.
26. *Ibid.*, p. 207.
27. Resolution of the Congress Working Committee (18th to 22nd August, 1940)—See Indian Annual Register, 1940, II, pp. 196-198.
28. Indian Annual Register 1940, II, pp. 216-217.
29. *Ibid.*, pp. 227-228.
30. *Ibid.*, p. 222—Resolution passed by the Congress Working Committee at Wardha (11th to 13th October, 1940).
31. *Ibid.*, pp, 243-245.
32. *Ibid.*, II, p. 36.
33. Coupland—Indian Politics (1936-1942), p. 250.

34. This was described by Mr. Amery in the House of Commons—See Parliamentary Debates, House of Commons (Official Report), 22nd April, 1941, vol. 371. In this connection, see also Indian Annual Register, 1941, 1, p. 50 and pp. 307-308.
35. Indian Annual Register, 1941, II, p. 58.
36. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 233.
37. Parliamentary Debates, House of Commons (Official Report), 22nd April, 1941, vol. 371.
38. *Ibid.*
39. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 233.
40. Cmd. 6293—Announcement issued by the Governor-General on 22nd July, 1941.
41. Mr. Amery's speech in the House of Commons, 1st August, 1941—Parliamentary Debates, House of Commons (Official Report), 1st August, 1941, vol. 373.
42. Indian Annual Register, 1941, II, p. 8, p. 212 and p. 302.
43. *Ibid.*, P.212.
44. *Ibid.*, p. 14, p. 18—The Chief Ministers of Assam and the Punjab decided to resign on 25th August, 1941. The Chief Minister of Bengal resigned on 10th September, 1941.
45. *Ibid.*, p. 18 and p. 219.
46. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 243.
47. *Ibid.*, p.244.
48. Indian Annual Register, 1941, II, p. 7.
49. Parliamentary Debates, House of Commons (Official Report), 1st August, 1941, vol. 373.
50. Indian Annual Register, 1941, II, pp. 260-272.
51. *Ibid.*, pp. 260 and 264.
52. The Bill referred to was The India and Burma (Postponement of Elections) Bill. As enacted, it became The India and Burma (Postponement of Elections) Act, 1941—4 & 5 Geo 6, Ch. 44.
53. Mr. Amery's speech in the course of the second reading of the Bill in the House of Commons on 11th September, 1941—Parliamentary Debates, House of Commons (Official Report), vol. 374.
54. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 250.
55. Hartman—Basic Documents Of International Relations (First Edition) pp. 139-140.
56. Parliamentary Debates, House of Commons (Official Report), 9th September, 1941, vol. 374.
57. *Ibid.*, 11th September, 1941, vol. 374.

58. P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 285-286.
59. *Ibid.*, p. 280.
60. Coupland—Indian Politics, (1936-1942) p. 262.
61. Indian Annual Register, 1941, II. p. 379.
62. *Ibid.*, 1942, I, p. 211.
63. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 326.

CHAPTER VI

1. The suggestions were made in October, 1939—See Chapter V, pp. 57-58. For details, see Parliamentary Debates, House of Commons (Official Report), 26th October, 1939, vol. 352.
2. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 329. (Quotations from Louis Fisher's article in the Nation of New York, 26th September, 1942).
3. Cmd. 6350. Also Parliamentary Debates, House of Commons (Official Report), 11th March, 1942, vol. 378.
4. Sir Stafford Cripps' appeal to the Press—See Indian Annual Register, 1942, 1, p. 220.
5. Indian Annual Register, 1942, I, p. 219.
6. Cmd. 6350—White Paper on the Lord Privy Seal's Mission to India
7. Cmd. 6350.
8. Sir Stafford Cripps' broadcast from Delhi—See Indian Annual Register, 1942, I, p. 222.
9. Cmd. 6350. Item no. 4. See in Cmd. 6350 also the Muslim League Working Committee's resolution, dated 11th April, 1942, which refers to the letter of Sir Stafford Cripps' Secretary to the League President. In fact, the language used by Sir Stafford Cripps seems to imply that a Province might decide non-accession by a simple majority vote in its Legislative Assembly.
10. Cmd. 6350.
11. Indian Annual Register, 1942, I, pp. 294-295. The resolution that was adopted by the A.I.C.C. reads as follows :—"The A.I.C.C. is of opinion that any proposal to disintegrate India by giving liberty to any component State or territorial unit to secede from the Indian Union or Federation will be highly detrimental to the best interests of the people of different States and Provinces and the country as a whole, and the Congress, therefore, cannot agree to any such proposal."

12. Sir Stafford Cripps' broadcast from Delhi—See Indian Annual Register, 1942, I, p. 223.
13. See Cmd. 6350—Resolution of the Congress Working Committee.
14. Cmd. 6350—Letters from Moulana Azad to Sir Stafford Cripps, dated 11th April, 1942.
15. Cmd. 6350—Letter from Maulana Azad to Sir Stafford Cripps, dated 10th April, 1942.
16. See Cmd. 6350—Letter from Sir Stafford Cripps to Maulana Azad, dated 7th April, 1942.
17. *Ibid.*—Letter from Moulana Azad to Sir Stafford Cripps, dated 10th April, 1942.
18. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 318.
19. Cmd. 6350—Letter from Moulana Azad to Sir Stafford Cripps, dated 10th April, 1942.
20. *Ibid.*—Letter from Sir Stafford Cripps to Moulana Azad, dated 10th April, 1942. Also Item No. 8, Cmd. 6350.
21. *Ibid.*— Letter from Maulana Azad to Sir Stafford Cripps, dated 10th April, 1942.
22. *Ibid.* Also letter from Maulana Azad to Sir Stafford Cripps, dated 11th April, 1942.
23. Cmd. 6350—Resolution of the Congress Working Committee. The Congress also had not prepared any list of functions that could be allotted to the War department and the Defence department respectively. But, according to Dr. Sitaramayya, functions falling under the following categories could be retained by the War department under the Commander-in-Chief and the rest transferred to the Defence department :—(1) Military policy ; (2) operations of war ; (3) policy in respect of scales of armament and equipment; (4) war establishment ; (5) intelligence and censorship ; (6) training and education ; (7) International Law ; (8) administration of the General Staff branch and of grants for the above services. (P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 318-319.)
24. No important political party accepted the Cripps Proposal.
25. Resolution of the Sikh All-Parties Committee ; Letter sent to Sir Stafford Cripps, dated 31st March, 1942—See Cmd. 6350.
26. *Ibid.* The exact words were : "Why should not the population of any area opposed to separation be given the right to record its verdict and to form an autonomous unit ?"
27. Cmd. 6350—Resolution of the All-India Muslim League Working Committee, issued on 11th April, 1942.
28. Letter to Sir Stafford Cripps from Dr. Ambedkar and Mr. Rajah, dated 1st April—1942. See Cmd. 6350.

29. Memorandum presented by Sir Tej Bahadur Sapru and Mr. M. R. Jayakar to Sir Stafford Cripps, published on 5th April, 1942— See Cmd. 6350.
30. Indian Annual Register, 1942, I, p. 246.
31. Parliamentary Debates, House of Commons (Official Report), 28th April, 1942, vol. 379.
32. Indian Annual Register, 1942, I, pp. 234-235. (Letter from Cripps to Moulana Azad, dated 11th April, 1942).
33. *Ibid.*, p. 244.
34. *Ibid.*, p. 241. (Pt. Jawaharlal Nehru at a Press conference on 12th April. 1942).
35. Parliamentary Debates, House of Commons (Official Report), 28th April, 1942, vol. 379.
36. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 326.
37. *Ibid.*, p. 315.
38. Parliamentary Debates, House of Commons (Official Report), 5th March, 1947, vol. 434.
39. Under Part XIII (Transitional Provisions) of the Government of India Act, 1935, references in the provisions of that Act for the time being in force to the Governor-General and the Federal Government were, of course, generally to be construed as references to the Governor-General in Council. But a very important type of matters was totally excluded from the purview of the Executive Council. As respects matters with respect to which the Governor-General was, according to the Government of India Act, 1935, required to act in his discretion, references to the Governor-General and the Federal Government must not be construed as references to the Governor-General in Council. Besides, any requirement in the Government of India Act, 1935, that the Governor-General was to exercise his individual judgment with respect to any matter was not to come into force until the establishment of the Federation. This being the position, if the Governor-General's veto was abolished there would be no point in retaining the large number of provisions relating to the Governor-General's discretion or individual judgment.
40. Mr. Sorensen's speech in the House of Commons—See Parliamentary Debates, House of Commons (Official Report), 28th April, 1942, vol. 379.

CHAPTER VII

1. Harijan, 26th April, 1942—Article under the caption, Foreign Soldiers In India.

2. *Ibid.*, 24th May, 1942—Article under the caption, Implications Of Withdrawal.
3. *Ibid.*, 26th April, 1942. Also P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 334-335.
4. Indian Annual Register, 1942, II, pp. 207-209.
5. *Ibid.*, pp. 12-13.
6. *Ibid.*, pp. 209-211. Also Cmd. 6430.
7. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 346.
8. Indian Annual Register, 1942, II, p. 251.
9. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 359.
10. *Ibid.*, pp. 373-374.
11. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 359. This was also referred to in the note of the Standing Committee of the All-India Newspaper Editors' Conference (24th September, 1942) to the Government of India —See Indian Annual Register, 1942, II, p. 322.
12. P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 360-361.
13. *Ibid.*
14. See pp. 102-103.
15. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 366.
16. *Ibid.* Also, Indian Annual Register, 1943, I, p. 327—Gandhiji's letter to the Viceroy, dated 14th August, 1942.
17. P. Sitaramayya—The History of The Indian National Congress, vol. II, p. 368.
18. Parliamentary Debates, House of Commons (Official Report), 10th September, 1942, vol. 383.
19. *Ibid.*, 11th September, 1942.
20. Cmd. 6430.
21. Gandhiji's reply to Government indictment—See Indian Annual Register, 1943, II, pp. 207-241.
22. *Ibid.*, p. 244.
23. *Ibid.*, pp. 241-244.
24. *Ibid.*, p. 200. There was, of course, no judicial inquiry. But it is believed that it was the Socialist group of the Congress that actually promoted the violence. It seems that Gandhiji knew it, at least in 1947, though, while admiring the selfless heroism of the leaders, he did not approve of their methods. In an interview given to some Socialist leaders sometime in May, 1947, Gandhiji said : "I have great admiration for what Jayaprakash, Aruna, Achyut and others did in

1942. They thought nothing of playing with their lives. I have paid tribute to their fearlessness and courage. But you will now have to cultivate the higher courage which dying without killing calls for. In that campaign, sabotage can have no place. You may not agree, but it is my conviction that, if the Bihar masses had not had the lesson which they had at your hands in 1942, the excesses which Bihar witnessed last year would never have occurred. To me it is little consolation that those who sponsored the sabotage programme did not themselves directly participate in violence."
(Pyarelal, *Mahatma Gandhi—The Last Phase*, vol. II, p. 179.)

25. Indian Annual Register, 1943, II, pp. 202-203.
26. Legislative Assembly Debates, 17th February, 1944, vol. I.

CHAPTER VIII

1. Indian Annual Register, 1942, II, p. 120(d).
2. Indian Annual Register, 1942, II, p. 4.
3. *Ibid.*, p. 120(d).
4. Parliamentary Debates, House of Commons (Official Report), 10th September, 1942, vol. 383.
5. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 336.
6. Indian Annual Register, 1942, I, pp. 294-295.
7. *Ibid.*
8. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 336.
9. Indian Annual Register, 1942, II, p. 17.
10. *Ibid.*, p. 20 and pp. 284-285.
11. *Ibid.*, p. 29.
12. Indian Annual Register, 1943, I, p. 329.
13. Letter from Gandhiji to the Viceroy, dated 29th January, 1943—See Indian Annual Register 1943, I, p. 324.
14. Indian Annual Register, 1943, I, p. 325.
15. Indian Annual Register, 1943, I, p. 35.
16. *Ibid.*, pp. 339-343.
17. *Ibid.*, pp. 39 and 44.
18. *Ibid.*, pp. 287-289.
19. *Ibid.*, p. 54.
20. Thus the proportion of Muslim Members was increased.
21. Parliamentary Debates, House of Commons (Official Report), 30th March, 1943, vol. 388.

22. Indian Annual Register, 1942, II, p. 62.
23. Indian Annual Register, 1943, I, p. 57.
24. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 541.
25. Indian Annual Register, 1943, I, p. 61.
26. P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 542-543.
27. *Ibid.*, pp. 540-544.
28. Indian Annual Register, 1942, I, p. 4.
29. *Ibid.*, 1944, I, p. 61.
30. *Ibid.*, 1942, II, pp. 57-58.
31. *Ibid.*, 1943, I, p. 46.
32. Parliamentary Debates, House of Commons (Official Report), 21st October, 1943, vol. 392.
33. Indian Annual Register, 1943, II, p. 128.
34. *Ibid.*, 1943, I, p. 47 and p. 51.
35. Parliamentary Debates, House of Commons (Official Report), 21st Oct., 1943, vol. 392.
36. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 526.
37. Indian Annual Register, 1942, II, p. 43, p. 45 & p. 46.
38. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 527.
39. Indian Annual Register, 1943, I, p. 264. Also P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 527-528.
40. P. Sitaramayya—The History of The Indian National Congress, vol. II, pp. 527-532.
41. Indian Annual Register, 1944, I, pp. 223-224.

CHAPTER IX

1. Indian Annual Register, 1943, II, p. 22.
2. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 565.
3. Parliamentary Debates, House of Lords (Official Report), 4th November, 1943, vol. 129.
4. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 574.
5. Indian Annual Register, 1943, II, pp. 335-342. See also P. Sitaramayya—The History Of The Indian National Congress, vol. II, pp. 574-575.

6. Indian Annual Register, 1943, II, p. 342.
7. Legislative Assembly Debates, 17th February, 1944, vol. I.
8. Mr. Jinnah's statement in an interview to the News Chronicle. See P. Sitaramayya—The History of the Indian National Congress, vol. II, p. 590.
9. Indian Annual Register, 1944, I, pp. 258-261.
10. *Ibid.*, p. 52.
11. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 610
12. Indian Annual Register, 1944, II, p. 161.
13. *Ibid.*, II, pp. 161-162, also pp. 163-165.
14. *Ibid.*, II, pp. 170-171.
15. *Ibid.*, II, p. 181.
16. *Ibid.*, II, p. 182.
17. *Ibid.*, II, p. 182.
18. Parliamentary Debates, House of Commons (Official Report), 28th July, 1944, vol. 402.
19. Indian Annual Register, 1944, II, pp. 182-183.
20. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 630.
21. Indian Annual Register, 1944, II, p. 135.
22. *Ibid.*, p. 130. Also, P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 631.
23. The formula was given in a statement by Mr. C. Rajagopalachari, issued from Panchgani on 10th July, 1944. See Indian Annual Register, 1944, II, pp. 129-130.
24. See Gandhi-Jinnah Correspondence—Indian Annual Register, 1944, II, pp. 135-152.
25. See p. 100.
26. Parliamentary Debates, House of Commons (Official Report), 5th October, 1944, vol. 403.
27. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 641.
28. *Ibid.* Also Legislative Assembly Debates, 1st November, 1944, vol. 4.
29. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 641.
30. *Ibid.*, p. 644.
31. *Ibid.*, p. 648.
32. *Ibid.*, p. 649.
33. Indian Annual Register, 1944, II, pp. 239-241.
34. Pyarelal, *Mahatma Gandhi—The Last Phase*, vol. I, p. 122.
35. *Ibid.*, pp. 122-126.

36. Parliamentary Debates, House of Commons (Official Report), 20th April, 1945, vol. 410.
37. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 657.
38. See Constitutional Proposals of the Sapru Committee, Appendix II.
39. Parliamentary Debates, House of Commons (Official Report), 14th June, 1945, vol. 411. Also Cmd. 6652.
40. Announcement of the Policy of His Majesty's Government, 14th June, 1945. See Mansergh—Documents And Speeches On The British Commonwealth Affairs, 1931-1952, vol. II, pp. 640-641. See also Indian Annual Register, 1945, I, p. 248.
41. P. Sitaramayya—The History of the Indian National Congress, vol. II, p. 663. Also Indian Annual Register, 1945, I, p. 72.
42. Indian Annual Register, 1945, I, pp. 239-243.
43. See the Viceroy's statement of 14th July—Indian Annual Register, 1945, I, pp. 240—241.
44. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 666.
45. Rajendra Prasad—Autobiography, pp. 566-567.
46. Mr. Jinnah's statement at a Press conference, Simla, 14th July, 1945. See Indian Annual Register, 1945, II, pp. 137-139.
47. Viceroy's statement of 14th July, 1945—See Indian Annual Register, 1945, I, pp. 240-241.

CHAPTER X

1. Indian Annual Register, 1945, II, p. 145.
2. *Ibid.*, p. 147.
3. *Ibid.*, pp. 148-149.
4. *Ibid.*, pp. 149-150.
5. Parliamentary Debates, House of Lords (Official Report), vol. 138.
6. Indian Annual Register, 1946, I, pp. 5-11.
7. *Ibid.*, p. 129.
8. Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 19th February, 1946, vol. 419. Also speech of Lord Pethick-Lawrence—Parliamentary Debates, House of Lords (Official Report), 19th February, 1946 vol. 139.
9. Parliamentary Debates, House of Commons (Official Report), 15th March, 1946, vol. 420.

10. The Bill referred to in this speech was the India (Central Government and Legislature) Bill. By Section I of the Act [The India (Central Government and Legislature) Act, 1946] Sub-section (3) of Section 36 of the Government of India Act, as continued in force by the Ninth Schedule to the Government of India Act, 1935 (being a provision which required that at least three members of the Governor-General's Executive Council were to be persons who had been for ten years in the service of the Crown in India and that at least one member thereof was to be a barrister, an advocate or a pleader) was repealed.
11. Cripps' speech in the House of Commons—Parliamentary Debates, House of Commons (Official Report), 18th July, 1946, vol. 425.
12. *Ibid.*
13. Cmd. 6829, Item No. 1—Letter from Lord Pethick-Lawrence to Moulana Azad and Mr. Jinnah, 27th April, 1946.
14. *Ibid.*, Item No. 19—League Memorandum, 12th May, 1946.
15. (a) Cmd. 6829, Item No. 20—Congress Suggestions ; Item No. 21—Congress Note.

    (b) Facts regarding Assam and the N. W. F. P. :—The strength of Congress membership in the Assam Legislative Assembly was 58 out of 108 while that of the Muslim League was 31. The strength of Congress membership in the N.W.F.P. Legislative Assembly was 30 out of 50 while that of the Muslim League was 17. For this, see Indian Annual Register, 1946, I, pp. 230-231.
16. Cmd. 6821.
17. Cmd. 6861.
18. Cmd. 6835—Mr. Jinnah's statement of 22nd May, 1946.
19. Cmd. 6861, Item No. 6—Resolution passed by the Council of the All-India Muslim League on 6th June, 1946.
20. Cmd. 6835—Resolution passed by the Congress Working Committee, on 24th May, 1946. Also Cmd. 6861, Item No. 13—Letter from Moulana Azad to the Viceroy, dated 14th June, 1946.
21. Cmd. 6835.
22. Cmd. 6862, Item No. 2—Letter from Lord Pethick-Lawrence to Moulana Azad, 22nd May, 1946. Also, Cmd. 6835—Statement of 25th May, 1946.
23. Lord Pethick-Lawrence's broadcast, 16th May, 1946—Indian Annual Register, 1946, I, p. 152.
24. Sir Stafford Cripps at a Press conference, 16th May, 1946—See Indian Annual Register, 1946, I, pp. 154-155.
25. Indian Annual Register, 1946, I, p. 155.
26. Cmd. 6835—Statement of the Cabinet Delegation, 25th May, 1946.

27. Cmd. 6862, Item No. 6—Resolution passed by the European Party in the Bengal Legislative Assembly on 15th June. 1946. See also Cripps' statement in the House of Commons on 18th July, 1946—Parliamentary Debates, House of Commons, 18th July, 1946, vol. 425.
28. Cmd. 6861, Item No. 2—Letter from Lord Pethick-Lawrence to Moulana Azad, 22nd May, 1946.
29. General Auchinlek on the position of the Armed Forces : Broadcast speech, 17th May, 1946—See Indian Annual Register, 1946, I, p. 160.
30. Lord Pethick-Lawrence at a Press conference, 17th May, 1946—See Indian Annual Register, 1946, I, p. 156. See also Cmd. 6835—Statement of 25th May, 1946.
31. Cmd. 6835—Statement of 25th May, 1946.

CHAPTER XI

1. Mr. Churchill's speech in the House of Commons—Parliamentary Debates, House of Commons, (Official Report), 16th May, 1946, vol. 422 ; and also 18th July, 1946, vol. 425.
2. Harijan, 26th May, 1946—Article under the caption, An Analysis, (pp. 152-153).
3. *Ibid.*, 2nd June, 1946—Article captioned, Vital Defects.
4. *Ibid.*, 23rd June, 1946—Article captioned, The European Vote.
5. A scheme of parity between the Congress and the League became a part of constitutional proposals even before the Simla talks of 1945. During 1944-45, Mr. Bhulabhai Desai (Leader of the Congress Party in the Central Assembly), practically prompted by the Viceroy, Lord Wavell, and acting with undue haste and enthusiasm, whole-heartedly agreed to a parity between the Congress and the League in the membership of the Central Executive Council. For his scheme, he also managed to secure the conditional approval of Gandhiji. It was perhaps the League leaders who torpedoed the Bhulabhai—Liaquat Pact which embodied this scheme. They wriggled out of the Pact because they were opposed to the other essential terms of the Pact. They, however, pinned their faith to the scheme of parity and concluded, perhaps rightly, that the Congress might be persuaded to share power in an exactly equal proportion with the League. Indeed, by the scheme of parity in the Bhulabhai—Liaquat Pact which got the approval of Gandhiji (though in a cautious and guarded language), the Congress was manoeuvred by the League—undoubtedly with Lord Wavell's blessings—into a pathetically embarrassing position.

Since that abortive but unfortunate Pact, Mr. Jinnah always demanded, with unshaken confidence, a parity between the Congress and the League, with the additional demand that the Congress must not nominate any Muslim. The British authorities also always tried, with equal confidence, to stampede the Congress into accepting parity in some form or other. It was with great difficulty that the Congress could argue its case against "parity in any shape or form" and thus try to undo Mr. Bhulabhai Desai's scheme.

For the Bhulabhai—Liaquat Pact, see pp. 120-122.

6. Cmd. 6861, Item No. 21.
7. *Ibid.*, (a) Item No. 31—Letter from Moulana Azad to the Viceroy, dated 25th June, 1946. (b) Item No. 32—Congress Working Committee's resolution, dated 25th June, 1946.
8. Indian Annual Register, 1946, II, pp. 100-101.
9. Cmd. 6861—Item No. 36.
10. Cmd. 6861—Item No. 40.
11. See p. 155.
12. Indian Annual Register, 1946, I, p. 64.
13. Cmd. 6861, Item No. 23—Letter from Mr. Jinnah to Lord Wavell, dated 19th June, 1946.
14. *Ibid.*
15. Cmd. 6861, Item No. 25—Letter from Lord Wavell to Mr. Jinnah, dated 20th June, 1946.
16. Cmd. 6861, Item No. 34—Letter from Mr. Jinnah to Lord Wavell, dated 25th June, 1946, enclosing the resolution of the Muslim League Working Committee, dated 25th June, 1946.
17. *Ibid.*, Item No. 35—Letter from Mr. Jinnah to Lord Wavell, dated 26th June, 1946.
18. *Ibid.*, Item No. 41—Letter from Mr. Jinnah to Lord Wavell, dated 28th June, 1946.
19. Mr. Jinnah claimed that, during their initial talks at Simla, the Viceroy had given him an assurance that there would be twelve portfolios —five for the League, five for the Congress, one for the Sikhs and one for Christians or Anglo-Indians—and that, as regards the portfolios, the most important portfolios would be equally divided between the League and the Congress. (Cmd. 6861, Item No. 7—Mr. Jinnah's letter to Lord Wavell, dated 8th June, 1946). Lord Wavell, however, denied there was any assurance regarding the 5:5:2 ratio. (Cmd. 6861, Item No. 8 —Lord Wavell's letter to Mr. Jinnah, dated 9th June, 1946).
20. Resolution of the Muslim League Council—See Indian Annual Register, 1946, II, pp. 175-177.
21. A. C. Banerjee—The Making of the Indian Constitution, p. 241.

22. Resolution of the Muslim League Council—See Indian Annual Register, 1946, II, p. 177.
23. Indian Annual Register, 1946, I, pp. 200-201.
24. Cmd. 6862, Items 1 and 3.

CHAPTER XII

1. Indian Annual Register, 1946, II, p. 325. Also Sir Stafford Cripps' speech in the House of Commons—Parliamentary Debates, House of Commons (Official Report), 12th December, 1946, vol. 431.
2. Indian Annual Register, 1946, II, p. 231.
3. *Ibid.*, pp. 231-233.
4. See pp. 160-161
5. Indian Annual Register, 1946, II, p. 233.
6. *Ibid.*, p. 221—*Communique'* of the Government of India, dated 12th August, 1946.
7. *Ibid.*, p. 222—Letter from Pandit Nehru to Mr. Jinnah, dated 13th August, 1946.
8. *Ibid.*, p. 222—Letter from Mr. Jinnah to Pandit Nehru, dated 15t h August, 1946.
9. *Ibid.*, p. 222—Letter from Pandit Nehru to Mr. Jinnah, dated 15th August, 1946.
10. *Ibid.*, pp. 225-227—Mr. Jinnah's statement on 18th August, 1946. In fact, Mr. Jinnah's apprehensions were not entirely without foundation. In a statement at a Press conference in Bombay on 10th August, 1946, Pandit Nehru made the following points clear :— (1) "Strictly legally speaking, there will be no change as regards the Viceroy's position ; but, in practice, I trust, he will be a kind of constitutional head. If the Viceroy exercises his veto, it would lead to trouble." (2) "Any Provisional Government must carry the Assembly with it. If it does not, that Government must go." (See A.C. Banerjee—The Making Of The Indian Constitution, p. 281).
11. The India (Central Government and Legislature) Act, 1946, —9&10, Geo. 6, Chap. 39.
12. Indian Annual Register, 1946, II, p. 228.
13. *Ibid.*, p. 229.
14. *Ibid.*, p. 274—Letter from Mr. Jinnah to Lord Wavell, dated 13th October, 1946.
15. *Ibid.*, p. 264.
16. *Ibid.*, pp. 273-274—Letter from Lord Wavell to Mr. Jinnah, 4th October, 1946.

17. *Ibid.*, p. 273—Letter from Mr. Jinnah to Lord Wavell, dated 3rd October, 1946.
18. *Ibid.*, pp. 273-274—Letter from Lord Wavell to Mr. Jinnah dated 4th October, 1946.
19. A. C. Banerjee—The Making Of The Indian Constitution, p. 291.
20. *Ibid.*, p. 293.
21. Indian Annual Register, 1946, II, p. 281.
22. A. C. Banerjee—The Making Of The Indian Constitution, p. 301.
23. Indian Annual Register, 1946, II, p. 264.
24. Pandit Nehru's speech at the Meerut Congress, 21st November—23rd November 1946. (See A. C. Banerjee—The Making Of The Indian Constitution, p. 302.)
25. Indian Annual Register, 1946, II, pp. 275-276.
26. Rajendra Prasad—Autobiography, p. 597.
27. Indian Annual Register, 1946, II p. 47 and p. 84
28. *Ibid.*, p. 279.
29. *Ibid.*, pp. 301-302.
30. P. Sitaramayya—The History Of The Indian National Congress, vol. II, p. 814.
31. Parliamentary Debates, House of Lords (Official Report), 16th December, 1946, vol. 144.

In the statement of 6th December, 1946, the British Government had pointed out that if, in spite of the British Government's interpretation of the Cabinet Mission Plan's provisions regarding the grouping of the Provinces, the Constituent Assembly desired to refer that fundamental point for the decision of the Federal Court, such reference should be made at a very early date and in that case the meetings of the Sections of the Constituent Assembly should be postponed until the decision of the Federal Court was known. Of course, what was said in the statement of 6th December did not distinctly mean that, if the issue of the interpretation of the Cabinet Mission Plan's provisions in respect of grouping were referred to the Federal Court, the British Government would accept that Court's decision even in case the decision went against its own interpretation.

32. Indian Annual Register, 1946, II, pp. 127-129.
33. Indian Annual Register, 1947, I, pp. 114-115.
34. Constituent Assembly Debates, vol. II, 1947, p. 303.
35. Resolution of the Muslim League Working Committee, Karachi, 31st January, 1947—Indian Annual Register, 1947, I, pp. 148-151. For the Muslim League's acceptance of the Cabinet Mission's long-term scheme, see pp. 145-146 ; and, for the withdrawal of this acceptance, see pp. 159-161 and p. 163.

36. Mentioned by Sir Stafford Cripps in the House of Commons : Cripps' speech—Parliamentary Debates, House of Commons (Official Report), 5th March, 1947, vol. 434.
37. Cmd. 7047.
38. Parliamentary Debates, House of Commons (Official Report), 5th March, 1947, vol. 434.
39. Parliamentary Debates, House of Commons (Official Report), 6th March, 1947, vol. 434.
40. Parliamentary Debates, House of Commons (Official Report), 20th February, 1947, vol. 433.
41. *Ibid.*
42. Resolution of the Congress Working Committee, 6th—8th March, 1947—See Indian Annual Register, 1947, I, pp. 117-118
43. Pyarelal, *Mahatma Gandhi—The Last Phase*, vol, 11.

CHAPTER XIII

1. Campbell-Johnson—Mission with Mountbatten, pp. 30-31.
2. *Ibid.*, pp. 38 and 42.
3. *Ibid.*, p. 55.
4. *Ibid.*, p. 64.
5. *Ibid.*, p. 62.
6. *Ibid.*, pp. 64-65.
7. *Ibid.*, p. 80.
8. *Ibid.*, p. 85.
9. Constituent Assembly Debates, 28th April, 1947.
10. Campbell-Johnson—Mission with Mountbatten, p. 85.
11. *Ibid.*, pp. 92-93.
12. *Ibid.*, p. 93.
13. *Ibid.*, p. 94.
14. *Ibid.*, p. 97.
15. *Ibid.*, p. 99 & p. 100.
16. *Ibid.*, p. 100.
17. Indian Annual Register, 1947, I, p. 249. The States' Negotiating Committee was the Committee which had been set up, according to the terms of the Cabinet Mission Plan, by the Standing Committee of the Chamber of Princes "to negotiate the States' entry into the Constituent Assembly." See p. 226 and p. 228.
18. Indian Annual Register, 1947, I, p. 249.

19. Cmd. 7136. Also, Attlee's statement on Indian policy in the House of Commons on 3rd June, 1947—See Parliamentary Debates, House of Commons (Official Report), vol. 438.
20. The Appendix is quoted below :—

THE MUSLIM-MAJORITY DISTRICTS OF THE PUNJAB AND BENGAL ACCORDING TO THE CENSUS OF 1941.

1. THE PUNJAB

Lahore Division—Gujranwala, Gurdaspur, Lahore, Sheikhpura, Sialkot.
Rawalpindi Division—Attock, Gujrat, Jhelum, Mianwali, Rawalpindi, Shahpur.
Multan Division—Dera Ghazi Khan, Jhang, Lyalpur, Montgomery, Multan, Muzaffargarh.

2. BENGAL

Chittagong Division—Chittagong, Noakhali, Tippera.
Dacca Division—Backerganj, Dacca, Faridpur, Mymensingh.
Presidency Division—Jessore, Murshidabad, Nadia.
Rajshahi Division—Bogra, Dinajpur, Malda, Pabna, Rajshahi, Rangpur.

21. Indian Annual Register, 1947, I, p. 257
22. *Ibid.*, p. 258.
23. Resolution of the A.I.C.C. (14th-15th June, 1947)—See Indian Annual Register, 1947, I, pp. 122-123, also p. 133.
24. Indian Annual Register, 1947, I, p. 261.
25. The Modern Review, May, 1947.
26. See pp. 139-141.
27. See pp. 192-195.
28. From the whole scheme, it is clear that the British Crown would have ceded sovereignty to the single Constituent Assembly of the Union or to the single authority empowered by that Constituent Assembly. The United Kingdom was to have concluded a treaty with the Union Constituent Assembly alone to provide for certain matters arising out of the transfer of power. See p. 144.
29. The 3rd June Plan contemplated one *or two* successor authorities. See p. 197.
30. See p. 151 and p. 144.
31. See pp. 196-197.
32. See p. 151.
33. See pp. 196-197. Paragraph 16(b) of the Statement of 3rd June, of course, points out the necessity for treaties. But this Statement does not mention any such condition as adequate provisions for the

protection of minorities in the new Constitution to be framed by the Constituent Assembly.

34. In its statement of 16th May, 1946, the Cabinet Mission indicated that power might be transferred to an independent India refusing to stay within the Commonwealth. See p. 225.
35. See p. 197.
36. This was indicated in paragraph 15(6) of the Statement of 16th May, 1946. See p. 141.
37. See p. 192 and p. 197.
38. See p. 141.
39. See p. 192 and p. 197.
40. See p. 141.
41. See pp. 192—195.
42. Paragraph 6, Cabinet Mission's statement of 16th May, 1946. See pp. 139-140.
43. Sub-paragraphs (1) and (3) of paragraph 15, Cabinet Mission's statement of 16th May, 1946. See pp. 140-141.
44. Official Report of the Proceedings of the Meeting of that part of the Bengal Legislative Assembly representing Muslim-majority districts and of the Meeting of all members of the Bengal Legislative Assembly excepting Europeans, 20th June, 1947.
45. *Ibid.*, Appendix II—Proceedings of the part of the Bengal Legislative Assembly representing areas other than the Muslim-majority districts.
46. Indian Annual Register, 1947, I, p. 78.
47. *Ibid.*, p. 79.
48. The Modern Review, July, 1947, p. 20A; and Indian Annual Register, 1947, I, p. 78.
49. Indian Annual Register, 1947, I, p. 79.
50. The Modern Review, July, 1947, p. 20A.
51. Attlee's speech during the second reading of the Indian Independence Bill—Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
52. Campbell-Johnson—Mission with Mountbatten, p. 124.
53. Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
54. Campbell-Johnson—Mission with Mountbatten, p. 123.
55. Campbell-Johnson—Mission with Mountbatten pp. 127-128.
56. *Ibid.*, p. 130.
57. *Ibid.*, p. 138.
58. Section 1, Indian Independence Act, 1947 (10 & 11 Geo. 6 Ch. 30).
59. Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 10th July, vol. 439.
60. *Ibid.*

61. Section 2, Indian Independence Act, 1947.
62. Sections 3 and 4, *Ibid.*
63. Section 5, Indian Independence Act, 1947.
64. Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 10th July, 1947.
65. *Ibid.*
66. 22 Geo. 5, Ch. IV.
67. An Act enacted by the King's most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa (No. 69—June 22, 1934).
68. Mr. Menon at a Press conference. See A. C. Banerjee—The Making Of The Indian Constitution, p. 519.
69. Attorney-General's speech—Parliamentary Debates, House of Commons (Official Report), 14th July, 1947, vol. 440.
70. Section 7(1) (a), Indian Independence Act, 1947.
71. Section 7(2), *Ibid.*
72. Parliamentary Debates, House of Commons (Official Report), 10th July, 1947. Such legislative action duly followed.
73. Section 8(1) and Section 8(2)(e), Indian Independence Act, 1947.
74. Section 8(2), *Ibid.*
75. *Ibid.*
76. Section 8(2)(c), *Ibid.*
77. Section 9, *Ibid.*
78. Section 9(1), *Ibid.*
79. Section 9(5), *Ibid.*
80. Section 9(3), *Ibid.*
81. Section 9(2) and Section 9(5), *Ibid.* Also, Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
82. Section 10(1), *Ibid.*
83. Cmd. 7116. Also, Attlee's speech in the House of Commons on 10th July, 1947—See Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
84. Section 10(2), Indian Independence Act, 1947.
85. Provision for withdrawal was to be made by Orders of the Governor-General—Sub-section (3) of Section 12, Indian Independence Act, 1947.
86. Section 12 and the Third Schedule, Indian Independence Act, 1947.
87. Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
88. See pp. 205-206.
89. Attlee's speech in the House of Commons—See Parliamentary Debates, House of Commons (Official Report), 10th July,1947,vol.439.

90. Section 14, Indian Independence Act, 1947. Also Attlee's speech, House of Commons, 10th July, 1947.
91. Section 15, Indian Independence Act, 1947.
92. Attlee's speech—Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
93. *Ibid.*
94. See Orders under the Indian Independence Act, 1947, pp. 36-72.
95. See p. 180, p. 226 and p. 236.
96. The Governors' Provinces were specified by an adaptation of Section 46 of the Government of India Act, 1935.

CHAPTER XIV

1. White Paper on Indian States (Government of India, Ministry of States), p. 17.
2. Report of the Indian Statutory Commission (Simon Commission), vol. I, pp. 83-91.
3. Report of the Indian States Committee, paragraph 57.
4. S. 3(3), Government of India Act, 1935.
5. S. 2(1) Proviso, Government of India Act, 1935.
6. Cmd. 4843, Item No. 3.
7. White Paper on Indian States, p. 26.
8. V. P. Menon—The Story Of The Integration Of The Indian States, pp. 40-44.
9. Under the Government of India Act, 1935, the functions relating to Paramountcy were exercised by the Political Department on behalf of His Majesty's Representatives. In practice, the Governor-General of India was also His Majesty's Representative—White Paper on Indian States, pp. 160-161.
10. V. P. Menon--The Story Of The Integration Of The Indian States, p.44.
11. See pp. 30-31. Also, see Legislative Assembly Debates, 1939, vol.V, pp. 433-434.
12. White Paper on Indian States, pp. 26-27.
13. Cmd. 6350—Cripps proposals.
14. *Ibid.*—Resolution of the Indian States Delegation.
15. V. P. Menon—The Story Of The Integration Of The Indian States, p. 49.
16. Memorandum in regard to States Treaties and Paramountcy—See Cmd. 6835. A similar declaration was made also in the Statement of 20th February, 1947—See paragraph 12 of the Statement.
17. Paragraph 14 of the Statement of the Cabinet Mission and the Viceroy, dated, 16th May, 1946. See Cmd. 6821.
18. Statement of the Cabinet Mission and the Viceroy, dated 16th May, 1946—See Cmd. 6821.

19. See Cmd. 6862.
20. A popular body "formed in 1927 with the object of attaining 'responsible government for the people in the Indian States through representative institutions under the aegis of their rulers." See V. P. Menon—The Story Of The Integration Of The Indian States, p. 22.
21. Indian Annual Register, 1946, I, p. 215.
22. White Paper on Indian States, p. 30.
23. Constituent Assembly Debates, 21st December, 1946, vol. I.
24. Constituent Assembly Debates, 22nd January, 1947, vol. II, p. 300—speech of Pandit Nehru.
25. *Ibid.*, p. 299.
26. *Ibid.*, p. 300.
27. Constituent Assembly Debates, 28th April, 1947, vol. III, Appendix A, pp. 367-368.
28. V. P. Menon—The Story Of The Integration Of The Indian States, p. 72.
29. Report of the Committee (of the Constituent Assembly) appointed to negotiate with the States Negotiating Committee —See Constituent Assembly Debates, 28th April, 1947, vol. III, Appendix A, pp. 363-366.
30. *Ibid.*, p. 374.
31. Indian Annual Register, 1947, I, p. 216.
32. Constituent Assembly Debates, 28th April, 1947.
33. Report of the Committee (of the Constituent Assembly) appointed to negotiate with the States Negotiating Committee —See Constituent Assembly Debates, 28th April, 1947, vol. III, Appendix A, pp. 363-366.
34. V. P. Menon—The Story Of The Integration Of The Indian States, pp. 74-76.
35. See Constituent Assembly Debates, 28th April, 1947, vol. III, Appendix A, p. 374.
36. V. P. Menon—The Story Of The Integration Of The Indian States, pp. 77-78.
37. Constituent Assembly Debates, 28th April, 1947, vol. III, p. 343.
38. White Paper on Indian States, p. 31.
39. Cmd. 7136.
40. V. P. Menon—The Story Of The Integration Of The Indian States, p. 91.
41. *Ibid.*, p. 84.
42. *Ibid.*, p. 90.
43. *Ibid.*, p. 91.
44. *Ibid.*, p. 91.
45. *Ibid.*, pp. 79 and 86.
46. White Paper on Indian States, p. 32.

47. Section 7, Indian Independence Act, 1947.
48. Section 2(4), Indian Independence Act, 1947.
49. See Sections 8 & 9, Indian Independence Act, 1947. Also, Orders under the Indian Independence Act, 1947. In this connection, see p. 208, p. 212, p. 215 & pp. 243-244.
50. White Paper on Indian States, p. 33.
51. *Ibid.*, p. 34.
52. White Paper on Indian States, pp. 157-159 (Appendix V).
53. *Ibid.*, pp. 34-35.
54. V. P. Menon—The Story Of The Integration Of The Indian States, p. 108.
55. White Paper on Indian States, pp. 160-164 (Appendix VI).
56. *Ibid.*, p. 35.
57. V. P. Menon—The Story Of The Integration Of The Indian States, p. 120.
58. *Ibid.*
59. The India (Provisional Constitution) Order, 1947-G. G. O. 14, dated the 14th August, 1947. S. 5 of the Government of India Act, 1935, was suitably adapted. See the Schedule to the Order.
60. An acceding State was defined by Section 6 of the Government of India Act, 1935, as adapted by the Order of the Governor-General, dated 14th August, 1947, in the following manner :—"An Indian State shall be deemed to have acceded to the Dominion if the Governor-General has signified his acceptance of an Instrument of Accession executed by the Ruler thereof."
61. White Paper on Indian States, p. 165. Also V. P. Menon—The Story Of The Integration Of The Indian States, p. 109.
62. V. P. Menon—The Story Of The Integration Of The Indian States, p. 110.
63. *Ibid.*
64. *Ibid.* Also White Paper on Indian States, p. 36.
65. White Paper on Indian States, p. 169 (Appendix VIII).
66. *Ibid.*, pp. 173-174 (Appendix IX).

CONCLUSION

1. S. 6(2), Indian Independence Act, 1947. See p. 209.
2. Article, 395, The Constitution Of India.
3. From a Minute by Sir Thomas Munro, 31st December, 1824. See Ramsay Muir—The Making Of British India, pp. 283-285.
4. See Parliamentary Debates, House of Commons (Official Report), 10th July, 1947, vol. 439.
5. Quoted by Pyarelal, *Mahatma Gandhi—The Last Phase*, vol. II, pp. 153-154.

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Cmd. 6121 (Statement issued by the Governor-General, 17th October, 1939, with other papers).

Cmd. 6129 (Announcement by the Governor-General, 6th November, 1939, and correspondence connected therewith).

Cmd. 6196 (Communique' issued by the Governor-General and resolutions passed by the Indian National Congress, the All-India Muslim League and the Chamber of Princes).

Cmd. 6219 (Statement issued with the authority of His Majesty's Government by the Governor-General, 8th August, 1940).

Cmd. 6235 (Statement made by the Governor-General to the Indian Legislature, 20th November, 1940).

Cmd. 6293 (Announcement issued by the Governor-General, 22nd July, 1941).

Cmd. 6350 (Lord Privy Seal's Mission : Statement and draft declaration by His Majesty's Government with correspondence and resolutions connected therewith).

Cmd. 6430 (Statement published by the Government of India on the Congress Party's responsibility for the disturbances in India, 1942-43).

Cmd. 6652 (Statement of the policy of His Majesty's Government in India, 14th June, 1945).

Cmd. 6821, 6829, 6835, 6861, 6862—all relating to the Cabinet Mission to India.

Cmd. 7047 (Statement of 20th February, 1947).

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